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ABSTRACT

The issue of parental leave following the birth or adoption of a child, or in the case of serious family medical problems, is discussed. Testimonies include: (1) general statements on the need for legislation regarding family and medical leave; (2) personal case histories involving the need for parental leave; and (3) presentations of official policy regarding leave in government agencies. Additional information on family and medical leave is included in an attachment. (PCB)

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FAMILY AND MEDICAL LEAVE ACT OF 1987

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JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON CIVIL SERVICE

AND THE

SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS

OF THE

COMMITTEE ON POST OFFICE AND CIVIL SERVICE HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

H.R. 925

THE FAMILY AND MEDICAL LEAVE ACT OF 1987

APRIL 2, 1987

Serial No. 100-8

Printed for the use of the Committee on Post Office and Civil Service

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FAMILY AND MEDICAL LEAVE ACT OF 1987

THURSDAY, APRIL 2, 1987

U.S. HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS, AND SUBCOMMITTEE ON CIVIL SERVICE, COMMITTEE ON POST OFFICE AND CIVIL SERVICE,

Washington, DC.

The joint subcommittees met, pursuant to call, at 9:35 a.m., in room 311, Cannon House Office Building, Representative Schroeder, presiding.

Mrs. SCHROEDER. Welcome to today's hearing on the Family and Medical Leave Act of 1987. Last month, two Education and Labor Subcommittees held hearings on the bill as it applies to the private workforce. We are here today to focus more specifically on Title II of the Act which deals with leave for Federal employees.

In its "parental leave guidance" issued last July, the Office of Personnel Management makes the stunning acknowledgement that "responsiveness to family needs works, in the long run, to the advantage of the organization." Our point exactly. Yet, the Administration balks at our legislation. They feel that an entitlement to family and medical leave benefits underminds managerial discretion and could "hinder unduly the accomplishments of organizational goals." Hogwash.

We very carefully included in H.R. 925 the requirement that, whenever possible, the employee must provide prior notice of the leave needed and try to schedule the leave to best meet the needs of the employing agency. But sometimes, births, adoptions and serious medical problems fail to respect our time frames or our heavy work schedules. If this were not the case, I would hope my staff member would have refrained from going into labor in the midst of an investigation.

With H.R. 925, we are simply recognizing that there are some critical times in an employee's life which must be accommodated. This accommodation should not rest on the discretion of individual supervisors. Employees should be assured that the time and the job security will be there when they most need it. This makes for good business. As OPM states, "good morale and the retention of experienced and productive employees contribute to a healthier organization."

We have some very distinguished people testifying this morning, and I first want to yield to the very knowledgeable and helpful ranking member of the committee, Congressman Frank Horton from New York.

Mr. HORTON. Thank you very much, Ms. Schroeder. Madam Chairman, I want to join with you in welcoming our witnesses.

The United States is the only major industrial country that does not have a national policy setting standards for family benefits.

The Office of Personnel Management does provide guidelines for granting leave for various purposes, but the implementation of those guidelines is left to the discretion of each employee's supervisor.

In issuing its new guidelines last summer, the OPM moved in the right direction. However, I think there is a clear need for some uniform federal policy.

The task we are facing is a delicate one. If we are interesting in strengthening the role of the family, it is necessary to support a parental and family leave policy which is based on compassion. At the same time, we must be careful that such a policy does not intrude on the ability of government and its managers to serve taxpayers efficiently. And I think this hearing is a very important hearing and it witl have a very important contribution to this overall questiom.

I especially want to welcome and join with you in welcoming the Comptroller General. He and his office and staff have done an excellent job in this matter and I look forward to hearing his testimony a little bit later, Madam Chairman, in the Government Operations Committee.

And also—I am sure she is out there someplace, but I just haven't picked her out—Eleanor Holmes Norton was the chair of the Equal Employment Opportunity Commission some years ago, and in my judgment she probably was the most outstanding chair that we have ever had on that commission, and I certainly want to join in welcoming her. And I will read her testimony very caredfully. She is an outstanding lady and she is an outstanding administrator, and I am sure she has some very wonderful thoughts to express on this occasion.

I do have another hearing, Madam Chairman, that I am going to have to leave to attend. I will listen for a few moments, and then I have to leave.

Mrs. SCHROEDER. Thank you very much. Let me yield to the gentleman who is the co-chair of this hearing this morning, the very distinguished gentleman from New York, Congressman Ackerman.

Mr. ACKERMAN. Thank you very much. It is a pleasure to serve as your co-chair, Madam Chairwoman.

I have a statement that I would like to submit for the record. But if I might, I would like just to relate a personal note that is an experience that I have had appropriate to the legislation that is before us today.

Some 17 years ago, in 1969—as a matter of fact, it was on Election Day—my daughter was born. And I had been a school teacher in the City of New York at the time for some five years. And after the summer, having been able to spend a little bit more time at home with my first and newborn infant, I decided I would have liked to spend a little more time than the average father traditionally was able to, and I decided to apply for a leave of absence, without pay, from the City of New York Board of Education.

I took a look at all the types of leaves of absence that they had, and the only one that was appropriate was one that was called maternity/child care. And I wanted to take a child care leave, so I asked just for a child care application. And they told me they didn't have one, they only had the maternity/child care leave, which they called the maternity leave.

It was a leave without pay. It was a leave without any benefits whatsoever. It was a leave that was traditionally given to mothers upon becoming a parent. It was a leave for up to four years, which was renewable automatically upon reapplication for an additional four years.

And I took that application and I filled it out. And they said, well, they are going to deny it if you don't fill out everything. So, I filled out every single part of it. I even had to go to an obstetrician—it was my wife's obstetrician, so we shared an obstetrician.

I met him at a bus stop after office hours and he thought the idea was terrific. He filled out the whole form. Where it said "technical designation for this infirmity" he put down, "fatherhood." And where it said "will be incapicitated until," he wrote "does not apply." He filled out the whole thing, I submitted it to my principal, and she denied it;

I then appealed it to the local community school superintendent and they thought it was some kind of a trick or prank. I assured them that I was very serious about it. They called me in for an interview.

And I asked them if that was normal procedure, and they said, well, it was not the traditional application that they were used to. And I said, well, I don't understand why, everything is all filled out. I said I would come in for the interview anyway.

So, I went for the interview and they started to ask me some very unusual questions, and they weren't sure exactly how to broach it. They wanted to find out if my wife had left me. They wanted to find out if my wife was competent. And I refused to answer those questions. But I assure you that my wife hadn't and has not left me, and she is the most competent person I have ever met.

But nonetheless, I refused to answer the questions. And I said that I thought that the questions were discriminatory. They asked me why, and I said because they don't ask that of everybody, and I believe that they are singling me out because of my sex, and that if they could demonstrate that they have asked those same questions, not of every applicant they have ever had, but just of the last applicant, whoever that might have been, that I would be glad to answer any questions that they have asked of another applicant.

Yet they persisted with these questions and I refused to answer them. And then they went into a huddle with all of the administrators and they came out and they said, on the "basis of precedence" that they would have to deny my application.

And I asked, how so, and they said, well, they have never approved an application for maternity for men ever before. I said, well, then on the "basis of precedence" they should approve it. And they asked me why, and I said because you have never turned down a man before.

But they didn't see the wisdom of my logic and they denied it.

I then appealed to the New York City Chancellor down at the Central Board of Education, and lo and behold, he sent me back a response saying "application denied," and the official reason was that this leave is not intended for fathers, which got me very, very upset.

Now, this was in 1970 by this time, early in 1970. And I said to myself, how dare they discriminate against me and my wife by saying that a father doesn't have a role or a responsibility in the rearing of his children.

I mean, we could think of many instances and I knew of many instances where, not necessarily teachers, the husband stayed home and the wife went out to work while the husband was taking courses for law school, or vice versa, or whatever. I thought it should be up to the individual family to decide and I was very aggravated about the type of response.

And I took the City of New York and the Board of Education to court back in 1970, and before the Equal Employment Opportunity Commission. We won, and it was the first case in the country where a man was granted this particular right.

I must say, Madam Chairwoman, that this was a class action suit on behalf of myself and all men, and all fathers, feeling that as a class and as a minority, by the way, we were being discriminated against in our right to spend time with our children, the same right that other employees had, a right to maintain your tenure, your seniority and a right to return to the same school.

That was at a time when there was a larger number of teachers than teaching positions.

And we also brought the case as a class action suit on behalf of Rita Ackerman and all mothers, the idea being that by saying that Gary Ackerman was forced not to stay home and forced to be the breadwinner in the family, that it was therefore logical to assume, even though everybody knew that our daughter was a genius and could probably bring herself up, it was logical to assume that it would therefore be required that Rita Ackerman and all mothers would be relegated to the position of spending all of those years in the kitchen and in the nursery, rather than being able to go out and work during those childbearing years, and therefore they were also discriminated against.

I now have three kids and I am none the worse off for wear. I wish I could spend a little bit more time with them these days than I did then.

But this legislation, certainly its time has come, and I want to applaud the sponsors and those people who are supporting it.

[The prepared statement follows:]

PREPARED STATEMENT OF HON. GARY L. ACKERMAN

I am pleased to be participating in this joint hearing with the distinguished Chairwoman of the Subcommittee on Civil Service and proud to be an original co-sponsor of H.R. 925.

The provision that allows fathers to take family leave carries a personal interest for me. When I was a school teacher in New York, the Board of Education had a maternity and child-care leave policy. In 1970, I applied for child-care leave to spend more time with my daughter Lauren, who was then ten months old. The Board of Education told me that the maternity and child-care leave applied only to women and that I would not be allowed to take child-care leave. So I claimed that the

Board of Education was discriminating against me and I won. The suit forced the Board to allow either parent leave to care for their children.

The Family and Medical Leave Act of 1987 addresses a fundamental shift in the demographics of the American workforce and the American family. Between 1950 and 1985, the number of women in the workforce has increased by 178 percent. According to the 1984 Census, the labor force was 44 percent female. More than 80 percent of working women are in their prime childbearing years. Additionally, fewer than 10 percent of families are made up of a married couple with children where the husband is the sole provider.

The Federal government has not met the challenge of a changing Federal workforce. The guidance issued by the Office of Personnel Management last year is simply not adequate. There is still no separate category for parental leave, and any absence because of maternity leave must be charged to sick leave, annual leave, leave without pay or a combination of these. Sick leave may only be used to cover the time required for physical examinations and to cover any period of incapacitation. A mother is forced to take either annual leave or leave without pay for any additional time to recuperate or integrate the new infant into the family. Agencies are not required to grant either of these leave requests. Additionally, fathers and adoptive parents are discriminated against because they are not entitled to leave in these cases. They must rely on their supervisors to grant annual leave or leave without pay requests.

I believe that the Family and Medical Leave Act of 1987, meets the needs of a changing American workforce as well as the needs of a changing Federal civil service. H.R. 925 provides 18 weeks of unpaid leave during a 24 month period for birth, adoption, or becoming a foster parent. This leave may also be taken to care for a sick child or parent. H.R. 925 also provides for 26 weeks of unpaid leave over a 12 month period for an employee who is unable to work because of a serious health problem. Lastly, the bill provides job security for returning employees, a provision that eases the pyschological burden of new parents or parents with seriously ill children.

I look forward to hearing this morning's testimony and hope that we can move this bill quickly through the Committee.

Mrs. SCHROEDER. Well, thank you. I thank the disginguished co-chair. And I am going to yield to a distinguished member of the panel, who is one of the prime sponsors of this legislation, and see if she can top that. Congresswoman Oakar.

Ms. OAKAR. I will never top Gary, Madam Chair. I just wanted to come to, first of all, compliment you, Madam Chair, and the distinguished Chairman of the Compensation Committee and the minority leaders who are here, Mr. Horton and Ms. Morella, et cetera.

We passed this bill out of our committee post haste last year and we kind of hoped that that would trigger the passage of the bill, and we did pass it out of committee, your Education and Labor Committee, as well.

The problem was that there wasn't the movement to take it to the floor. And, I think that now its time has come.

Let me just give a few statistics from another point of view, and I certainly am glad that this is a neutral bill because of the family issue, that is implied; But the fact is that if you just take a look at where women are in the work force, you know that about 80 percent of the 50 million women in the work force are childbearing age, and 93 percent of them are likely to become pregnant during their working lives. And that is about 38 million American women.

We know that 67 percent of the women with children under three years old and almost half of these with children under one year old are in the work force. And we also know that the sort of Ozzie and Harriet model of the father working, the mother at home with the kids, is really about seven percent of the American family, and we know that we have about 16 percent of the American families headed by a single mother.

So, the pressure for families, whether they are a two income couple or a one income couple, or a one income individual, is tremendous. And we know that when we have an American family where two people are working, the two spouses are working, that averages to about $28,000 a year.

And so, it is tremendous for these people to get their jobs back, if they want to take that parental leave.

That is one of the major problems, beyond the fact that we should have a leave. It is, what happens afterward. And we had some very interesting witnesses last year concerning government workers, and we should be having the government federal work force as a role model for the way we treat the rest of the employees.

So, every department, it seems, has an individual policy, and it seems to me there ought to be a uniform policy that is progressive, that is a model for the rest of the work force in the country, and I just want to say to you, Pat, very, very sincerely, that you have been the spearhead of this whole bill and I just want to lend my support in any way I can, because its time has come, and it is kind of an embarrassment to be one of the few countries in the civilized world without a parental leave, medical leave policy.

So, I am here to just support you in any way I can and hopefully what we do with government employees will certainly mirror what we do with the rest of the work force in our country.

Thank you.

Mrs. SCHROEDER. Thank you very much, Mary Rose, and you have been a real spearheard in this effort, too.

And let me introduce one of our new, bright lights that we are so delighted to have on the committee, Connie Morella, from Maryland. Connie.

Ms. MORELLA. Thank you very much. I am very pleased, Ms. Chairman, that the hearing was called on House Resolution 925, The Family and Medical Leave Act, and as the newest member of the committee, I also have joined in co-sponsorship of the bill.

I am a strong supporter of job protected leave for employees to meet parental responsibilities and to deal with serious health problems.

I certainly want to add my congratulations to my distinguished colleagues from Colorado and Missouri for their efforts on this important legislation. I know it does have a history. I did peruse the testimony that had been offered last year, and I recognize the need for a uniform policy, which has been one of the problems.

I also want to congratulate the gentleman from New York for his class action suit. It sounds like it was a real class act.

Also, now you know in a little way what women have been putting up with in so many other areas, too. But I do congratulate you.

I am aware of some of the concerns on the part of the business community and the Administration. Also, part of this hearing is to have an opportunity to work with members of the committee and with these groups to improve the bill, as it is currently drafted, if necessary.

I have looked over the list of witnesses. I look forward to listening to what the witnesses have to say in the panel, and a useful discussion of the bill.

Thank you.

Mrs. SCHROEDER. Now let's start with our very distinguished first witness, the Honorable Charles Bowsher, the Comptroller General of the General Accounting Office.

I want to compliment you on your very fine testimony. We will put it all in the record, if you want to summarize it. So, the floor is yours, and we are delighted to get started with a positive beginning.

STATEMENT OF HON. CHARLES A. BOWSHER, COMPTROLLER GENERAL, GENERAL ACCOUNTING OFFICE

Mr. BOWSHER. Thank you very much, Madam Chairman, and members of the subcommittee. We are pleased to be here today to discuss our current policy, which we changed in 1982. We made the change in order to have a policy that would be routine across the board for our entire organization.

We occasionally found that when we left it with the supervisors, we had problems in applying the program. Therefore, we thought it would be better to develop a more consistent policy.

There are really some essential elements of this policy, and I thought I would just read them very quickly here, beginning on page 2.

Employees may request and automatically receive up to 26 weeks of unpaid leave, in addition to any accrued annual leave, for purposes of providing: one, a period of adjustment with their newborn infants; two, time to render infant care; and/or, three, time to make child care arrangements.

Female employees may also take sick leave, accrued or advanced, during the period a physician certifies they are temporarily incapacitated for maternity purposes.

Paternity leave is also included in our policy.

Male employees may request and receive annual leave and up to 26 weeks of unpaid leave to assist in caring for his newborn child, with the leave to begin after delivery.

Now, adoptive parents are entitled to the same leave provisions as natural parents.

Unpaid leave must be consecutive and specifically related to the need for infant care. The consecutive period requirement may be waived where it involves work for GAO and where the employee is agreeable to a limited work schedule.

Finally, employees who take parental leave are entitled to continued employment in the same or a comparable position upon their return to duty.

I might point out that since implementing our current policy more than four years ago, we have received no employee complaints or any other concerns from our employees. We think the policy is working quite well.

We have given this policy to all our people, our professional people and our administrative staff people. And I think that, as I said earlier, it has worked very well for us.

We would be happy to answer any questions.

[The full statement of Mr. Bowsher follows:]

United States General Accounting Office

GAO Testimony

For Release
on Delivery
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Thursday
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Family and Medical Leave Act of 1987

Statement of
Charles A. Bowsher Comptroller General
of the United States

Before the
Subcommittee on Civil Service
Committee on Post Office and Civil Service
House of Representatives

T/CRO-87-1

Madam Chairwoman and Members of the Subcommittee:

I am pleased to appear before the Subcommittee to discuss the parental leave policy of the General Accounting Office.

Before October 1982 when our current policy was established, the heads of GAO organizational units had complete discretion to approve or disapprove requests for leave-without-pay for maternity reasons. Maternity leave could be a combination of one's annual and sick leave and/or leave-without-pay.

When we looked into how maternity leave requests were being handled across the GAO we discovered that the majority of expectant mothers used a combination of accrued or advanced annual and sick leave for absences during the delivery and post-delivery periods. Some also requested and were routinely granted modest amounts of leave-without-pay. Occasionally, however, an employee would seek unpaid leave for an extended period. It was in considering these requests where we found that managers might apply differing criteria for deciding whether unpaid leave would be approved.

Sometimes approval may have been based on how long unit management thought an employee could be spared. Sometimes it may have hinged on whether the requestor was viewed as a superior or outstanding performer, as opposed to marginal or average -- the

better the job performance, the more likely the request would be approved as submitted, particularly if it appeared the employee might resign if the request was denied. In other cases, unit management may have set 90 days as its maximum unpaid maternity leave and routinely approved up to that amount irrespective of other considerations.

In light of these inconsistencies and the possible need to give more explicit recognition and weight to the expressed needs of new parents for unpaid leave, our Civil Rights and Personnel Offices developed a proposal for a revised parental leave policy.

Comments on the proposed revised policy were requested from all of our organizational units and our various employee groups.

Most comments supported the proposed changes, although some expressed concern over providing for less management discretion in acting on requests for unpaid leave. Our new policy then was put into effect in the belief that it was in the best interests of our employees and not incompatible with the interest of management.

These are the essential elements of our current policy:

--Employees may request and automatically receive up to 26 weeks of unpaid leave, in addition to any accrued annual leave, for purposes of providing (1) a period of adjustment with their

newborn infants, (2) time to render infant care and/or (3) time to make child care arrangements.

--Female employees may use sick leave, accrued or advanced, during the period a physician certifies they are temporarily disabled for maternity reasons.

--Paternity leave is also included in our policy. Male employees may request and receive annual leave and up to 26 weeks of unpaid leave to assist in caring for his newborn child, with the leave to begin after delivery.

--Adoptive parents are entitled to the same leave provisions as natural parents.

--Unpaid leave must be consecutive and specifically related to the need for infant care. The consecutive period requirement may be waived where it involves work for GAO and where the employee is agreeable to a limited work schedule.

--Finally, employees who take parental leave are entitled to continued employment in the same or a comparable position upon return to duty.

Since implementing our current policy more than 4 years ago we have received no employee complaints of arbitrary or uneven treatment or indications that the policy seriously impairs management's ability to efficiently operate our agency.

Last month we informally polled several headquarters units and 10 of our 15 regional offices on the amount of leave-without-pay

taken under our parental leave policy, and whether the requestors were professional or clerical staff. These results are summarized in the attachment.

We asked these units what kinds of problems, if any, they had encountered as a result of our parental leave policy.

They reported that they have not encountered serious managerial difficulties associated with the policy. Professional staff and their assignments can be shifted according to need. Extended absences by clerical and administrative personnel are a bit more complicated to accommodate. But reassigning some tasks, perhaps coupled with compensatory time off for extra hours worked, is usually sufficient to ease a particular situation.

Unpaid leave, regardless of the reason taken, is not without some cost to the government. Under the Federal retirement systems employees can receive up to 6 months of service credit while in non-pay status in each calendar year. Costs associated with this credit are borne entirely by the government; employee contributions for periods of unpaid leave are not required. While in a non-pay status employees are also relieved of their share of life insurance premiums. Health insurance, however, continues to be maintained by contributions from both government and the employee.

4

While costs are associated with unpaid leave under current procedures, GAO derives some benefits from its parental leave policy, intangible though they may be. The improved morale of our new parents and their good feelings toward the agency are obviously a big plus. GAO demonstrates its concern and support for them as they undertake an important responsibility.

I suspect, but am not in a position to demonstrate, that our policy has also helped us to attract and retain good employees who might otherwise have considered resigning if faced with the competing demands of very early parenthood and an employer insensitive to those demands. Recognizing the considerable expense of hiring, training and developing personnel, guaranteeing a reasonable amount of unpaid parental leave appears to be a sound investment.

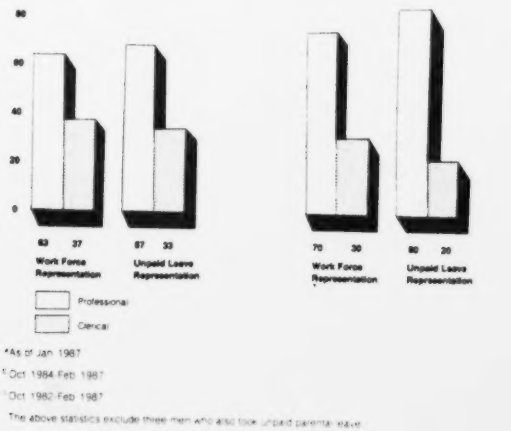
Madam chairwoman, this concludes my prepared statement. We would be pleased to respond to any questions about our parental leave policy.

GAO Employees Taking Unpaid Parental Leave

Length of Employee Parental Leave Absences

Location	Number of Employees*	Number taking unpaid Leave	Length 1-12 Weeks	Length 13-26 Weeks
Headquarters	763	49[b]	33	16
Regional Office	432	54[c]	33	21

Comparison of Professional and Clerical Absences



*As of Jan. 1987.

[b]Oct. 1984-Feb. 1987.

[c]Oct. 1982-Feb. 1987.

The above statistics exclude three men who also took unpaid parental leave.

Mrs. SCHROEDER. Thank you very much. We really are pleased to have a success story.

Let me yield first to the co-chair for any questions.

Mr. ACKERMAN. I thank you, Madam Co-Chairman. I have no questions and appreciate the testimony.

Mrs. SCHROEDER. Thank you.

Congresswoman Morella.

Ms. MORELLA. As a matter of fact, I think I will reserve my questions until the end of the panel.

Mrs. SCHROEDER. He is just appearing by himself, I am sorry. This is not a panel. Forgive me. It may have been a little confusing.

Ms. MORELLA. Well, do you feel that the system that you have just briefly articulated would work on a governmentwide basis? Do you see it as a model?

Mr. BOWSHER. I am not sure it would work on a governmentwide basis. We have not performed any study but we think it would. Personally, I think it would work in many of the agencies, and it certainly worked at our place.

Now, there is no question that a high percent of our people are professional people. We don't really have a lot of people having as many children as some other agencies might be having. So, that would also be a factor.

In our type of agency, where we are really trying to attract, maintain, and retain top people to work here in the government, why, I think it is awfully important to have some progressive personnel policies that people can identify with and which gives them confidence that this is a place where they want to work. That is what I think has been a big help to us.

Ms. MORELLA. I appreciate what you have done. I wonder, do you also have some statistics, since you started that, in terms of how many people have utilized it?

Mr. BOWSHER. Yes, we do. We have had, in our headquarters, 49 people who have taken unpaid leave, and in our regional offices—we have an organization where half our people are in headquarters here in Washington and half our people are in 15 regional offices—we have had 54 people take the unpaid leave.

Now, in addition, I want to point out that people have taken some of their annual leave, which we don't include in those statistics. This would be over and above any annual leave or sick leave that any people might take.

And I think it varied as far as the length. We had one statistic here that said: the length, one to 12 weeks, was 33 people; the length of 13 to 26 was 16 people at headquarters; and in the regional offices it was 33 for the shorter period and 21 for the longer period.

Ms. MORELLA. Okay. What percentage would that be of your total employees?

Mr. BOWSHER. Well, it is a relatively small percent compared to our total employees. In other words, in our headquarters we have 763 women employees here, and 49 took the unpaid leave. In the regional offices it was 432, and 54 took unpaid leave.

But as I say, I think it understates the situation, because they took the additional leave, which they also are entitled to.

Ms. MORELLA. Thank you very much.

Thank you, Madam Chairman.

Mrs. SCHROEDER. Thank you.

A lot has been said that this is a yuppie benefit. Do you have anything that shows that clericals at GAO used it less than the professionals?

Mr. BOWSHER. Our statistics show that it would appear that they use it somewhat less. But we really don't think so when we look at the combination of the leave. And actually, I think it is equally important to the administrative people.

When I first got to GAO five years ago, we had a situation where our clerical people were not in any pools of any sort or we didn't have an overload factor of how we could actually pick up if somebody was absent. And so, some people stated that they thought it was more difficult to apply this policy or give this provision to the clerical people. But I think that was our problem, as far as how we were organized.

Today, we are organized better, really, to handle the clerical workload at our shop. I think it is equally important to each group and both groups seem to be availing themselves of it.

Mrs. SCHROEDER. Well, thank you very, very much for being here this morning and for your testimony. We are very pleased at how well it has worked over there. Thank you.

Mr. BOWSHER. Fine. Thank you very much.

Mrs. SCHROEDER. Our next witness this morning is the Honorable James Colvard, who is the Deputy Director of the Office of Personnel Management.

I want to welcome you and say we are pleased to have you here. We will put your entire statement in the record. If you would like to summarize, we would be more than happy to have you do that, and tell us what you see transpiring.

STATEMENT OF JAMES COLVARD, DEPUTY DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT, ACCOMPANIED BY CLAUDIA COOLEY, ASSOCIATE DIRECTOR FOR PERSONNEL SYSTEMS AND OVERSIGHT

Mr. COLVARD. Good morning. It is a pleasure to be here.

I have with me Claudia Cooley, who is the Associate Director for our Personnel Systems and Oversight Group.

I would be pleased to have our testimony included in the record. Let me make a couple of very quick points.

First of all, we clearly support the President's commitment to strengthening the role of the family in American life.

Our current leave system, we think, adequately supports that commitment.

Director Horner last year issued guidance to emphasize the availability of that leave system and to encourage people to utilize it humanely and professionally and effectively.

I think Mr. Bowsher's testimony has eloquently demonstrated that the current system has sufficient flexibility. The very program that he carried out was carried out under the existing leave system of the Federal Government.

Mrs. SCHROEDER. But they are not covered by OPM. They are separate. They are under a separate personnel system.

Mr. COLVARD. They are under the same leave provisions that the rest of the Federal Government is under.

Mrs. SCHROEDER. No, not under OPM guidance.

Mr. COLVARD. They are not under OPM in terms of being under our personnel system, but their leave system, I believe, is exactly the same.

Is that correct, Claudia?

Ms. COOLEY. I believe the statutory basis for their leave system is the same as that for other Federal workers.

Mr. COLVARD. You are certainly correct—they didn't have to get our permission.

Ms. COOLEY. The system that they adopted certainly could be adopted under the leave system that affects all Federal workers.

Mr. COLVARD. While the system that Mr. Bowsher talked about omitted a couple of the obtrusive portions of Title II of the current bill, namely the guarantee of a return to exactly the same job, and the fact that the leave must be taken consecutively, it still demonstrates, I think, quite adequately that GAO managers are doing what all good Federal managers do, and that is, exercise good judgment in applying the system that is available to them.

Where there are differences of application, as has been alluded to, I think it is appropriate to consider that any time you have a speeder, you don't necessarily change the speed limit—you discipline the speeder. If the speed limit is not sufficient to handle the traffic, then you have a systemic problem and you change it.

I think that in this case, GAO has demonstrated that the speed limit we have is infinite and you can work within it.

Leave without pay is not limited in terms of the amount that can be applied. If there are managers who can't handle that authority, then the managers should be disciplined rather than changing the system.

I think the question before us is really quite simple. It is a question of where do you repose the discretion—in the hands of the manager or in the hands of the employee—and still allow a work situation where you are paid to achieve objectives and accomplish work.

The existing system reposes that discretion in the hands of the manager, and as I suggested, in an organization the size of the Federal Government, there are going to be managers who can't effectively handle that authority.

We believe that they are distinctly in the minority—that in fact most Federal managers are excellent managers. And we are not in a situation where you have the villains and the innocents. These people we are talking about are all Federal employees, the managers as well as those that are working for them.

In terms of the application of this bill to the private sector, while it is not our direct concern in OPM and we concentrate on the federal side, we also view it as an unnecessary intrusion into the market dynamics of the way the economy of our country operates.

I would be pleased to take any questions at this point.

Mrs. SCHROEDER. Thank you very much. I must say, I am a little startled by your testimony. We have done a survey of different

agencies and found out that what is happening under OPM guidelines is very different than what is happening under GAO.

Under GAO, they are giving specific guidance to the supervisors as to how they can apply this parental leave. You give total discretion to any supervisor to do whatever they want.

And so, therefore, you say your policy is working well, but what we found is that employees don't agree. It depends on what agency they are in and how enlightened their supervisor is. It can be denied, and there are no guidelines to appeal it. The policy is, if they want to have one, they can have one; if they don't want to have one, they don't have to have one; if they want to have one for X but not Y, they can do that. It is really laissez faire.

Mr. COLVARD. Well, we in fact do leave discretion to the agencies, and I believe that is the purpose of policy, to create an overarching umbrella within which people can operate and allow them the freedom to accommodate to individual situations. Just as individual employees have different needs, agencies have different needs.

Some agencies can afford delay in the delivery of their product, for example. I am not sure it is of great consequence if a GAO report is a week late. It may be of great consequence if a NASA launching doesn't occur on time.

So, you have to allow freedom for the individual managers to exercise some discretion. And I think the pattern shows that in fact this discretion is not being abused. I would be interested in the statistics that suggest that it isn't being used wisely.

Mrs. SCHROEDER. Well, no one has any quarrel—in fact, in my opening statement I tried to point out that we think it is important for the employer and the employee to plan ahead. If there is some emergency, okay, terrific, you try and take that into account. But, there is just no guidance there at all from OPM. You just let them do whatever they want to do, and as a consequence, I think managers are afraid to act—it is almost like Congressman Ackerman's case. They are afraid they will create a precedent and someone else will want it, and then maybe that time they won't. I think the incentive is not to be creative and helpful, the normal bureaucratic incentive is to be conservative and hold it down, and that is certainly what we hear when we talk to employees.

But I am interested in your different interpretation of it.

Congressman Ackerman, do you have some questions?

Mr. ACKERMAN. I was just wondering if what we are really doing here is accommodating the different philosophies of the supervisors, rather than the needs of the employees, in that flexibility.

Mr. COLVARD. Congressman, there is always, of course, a certain amount of that. And as I suggested earlier, there will be people who in fact can't use that authority effectively. But that is why we have oversight processes, that is why we have appeal procedures, and when we find people who can't effectively utilize it, we deal with them. And there is not a pattern of abuse.

In fact, I can certainly state from my 28 years experience of managing under that system that this discretion is used very effectively and we used it extensively in the organizations that I was a part of.

But it allowed us to, again, adapt to the situation at hand, and we treated our managers as if they were adults who didn't have to

have the detailed guidance that proscribes and prescribes, but in fact we said, here are the boundary conditions, and it's up to you to maintain a motivated and functional work force to get your work done. Obviously, managers who don't deal with their people effectively will lose their employees over a period of time.

So, there are considerable pressures to be an effective and a compassionate manager.

Mr. ACKERMAN. It just seems strange to hear somebody saying that, you know, we are treating our supervisors as adults and giving them flexibility when it comes time to administering what some people believe should be the rights of employees, but then have the same administration tell us what color the dye should be in the toilet bowl water after we make them urinate in front of other people.

Mr. COLVARD. I would have to defer to HHS in the prescription of colors of dye, Congressman.

Mr. ACKERMAN. I understand. Would you be willing to take a survey of employees with regard to whether or not they thought the regulations within their agencies were being fairly administered with regard to various kinds of leave?

Mr. COLVARD. Yes, I would personally be willing to take such a survey. I believe that we have, within the Federal system, in fact——

Mr. ACKERMAN. I am not asking you personally. I am asking you in your official capacity, if you would be willing to do so?

Mr. COLVARD. Certainly.

Mr. ACKERMAN. Would you be able to provide those numbers to us?

Mr. COLVARD. Certainly.

Mr. ACKERMAN. Thank you. We would appreciate that.

Mrs. SCHROEDER. Congresswoman Morella.

Ms. MORELLA. Mr. Colvard, I would like to ask you, does each agency, then, have formal guidelines for this?

Mr. COLVARD. Yes, they do. I don't know that they have written handbooks, but each agency has guidelines. For example, within the Navy, the level at which you can approve leave is established.

Generally, the thing that you do is establish who has authority. And then, within that authority and the boundaries of the law, the discretion for granting leave without pay is unlimited, and in fact very extensive periods of leave without pay have been granted for a variety of reasons, including the one we are discussing here.

Ms. MORELLA. In other words, what they are given to work with is simply a range of time, and then it is up to them to decide who is eligible, for what period of time, under what conditions. Is that pretty much what we are saying?

Mr. COLVARD. Let me have Claudia comment on that.

Ms. COOLEY. Thank you. First of all, I just want to make sure that it is clear that when we talk about supervisory discretion here, we are speaking primarily of leave without pay or unpaid leave.

Ms. MORELLA. Right.

Ms. COOLEY. The Federal Government does have a generous leave program. Annual and sick leave are available for employees to use, and that is something that employees are entitled to on a consist-

ent basis. There are some variations there in terms of approval processes, but essentially that entitlement is there.

Also, Federal employees who are on approved leave do have a right currently to be restored to their positions or a comparable position in the same commuting area at the same pay and status when they return to their jobs.

So, they do have a restoration right when they are on any kind of leave, including unpaid leave.

Also, their health benefits continue during that time that they are on unpaid leave. Supervisors do not have discretion on any of those issues.

Ms. MORELLA. Right.

Ms. COOLEY. Where there is discretion is the question of how much leave without pay would be appropriate in a particular circumstance.

The Office of Personnel Management's policy on this is that you provide for these purposes, for parental leave, as much as you can without interfering with the accomplishment of the agency's mission. This requires some judgment.

Now, many agencies, such as GAO, you will see have established for themselves a uniform policy for the agency based on what the composition of their work force is, what their mission is, and what they think they can do under their own set of circumstances. So, many agencies have uniform policies on this.

A number of agencies also have this in their collective bargaining agreements with their unions. There are provisions in, I believe, over 25 percent of the bargaining agreements now—and we expect that would grow in the future—that deal with this question. Those agreements may specify on a uniform basis either a floor or a ceiling or both for the amount of leave without pay that would be granted in a set of circumstances.

So, in many cases agencies regulate this uniformly. In many cases it is a product of a collective bargaining agreement setting these standards, and then in some cases, the supervisors do have discretion.

Even under this bill, of course, supervisors would still have discretion. The policy wouldn't be uniform. There would be a uniform floor but there wouldn't be a uniform ceiling. So, individual supervisors still would be in a position—and I assume practices would vary—to approve leave that would exceed the amount specified in legislation.

So uniformity, we think, is not something that is needed at this point. It is important in some cases that less leave might be appropriate. In other cases more leave might be appropriate, depending on the needs of the individual and depending on the needs of the employer.

Ms. MORELLA. Thank you. We are talking about the largest employer in the country, and yet I am also hearing that there aren't even standards for individual agencies to make sure they have a floor, ceiling, may be extenuating circumstances that transcend it, or whatever. But you don't even have written guidelines for each agency to look at. I mean, it is helter skelter. Maybe in some instances it is working, maybe in some instances it is not working, but we don't even know, because there is nothing that says even

each agency will come out with what the qualifications will be, within the guidelines.

It is almost like a model; the time has come for trying to have more control over how it is utilized, so that there is a sense of fairness and equity that comes through.

In those agencies that you know of where they have granted the leaves without pay, what do they do for other employees? Do they take on temporaries? Do you know?

Ms. COOLEY. Excuse me. Is your question what would they do to fill in behind the individual that is on leave?

Ms. MORELLA. That is correct. What do they do?

Ms. COOLEY. And by the way, I would say every agency of the Government does grant leave without pay.

Ms. MORELLA. Right.

Ms. COOLEY. The issue is how much and under what set of circumstances.

Ms. MORELLA. Right. And the fact that there is nothing written about circumstances.

Ms. COOLEY. In terms of how one deals with trying to replace those individuals, that would vary, depending again, of course, on the staffing situation of the agency and on the particular skills that the individual who is on leave has and what is required to cover the absence for that period of time.

This is exactly why some discretion is needed, why we would like to preserve some discretion, because the set of circumstances can vary. In some cases it can be rather easy to fill in behind somebody who is on leave. In other cases it could be very difficult. And sometimes agencies have to resort to overtime. If you are getting out something that has to be done—the Social Security checks—or something that cannot wait for somebody to come back, and you need to have people there, then you might have to pay overtime to the other staff because there aren't other people available to assign to those jobs who have some very specialized knowledge.

In other cases, you might have to cancel leave plans of other Federal employees. In approving annual leave, that leave can be cancelled because we recognize there are times when the public's business just has to get done. Therefore, we could find ourselves in a situation where, in order to meet this request, we would have to cancel annual leave plans of someone who might be taking his or her family vacation, or for some other purpose.

Hiring temporaries does get difficult, particularly when you have a highly specialized occupation, especially since the Federal Government does not currently enjoy the flexibilities associated with using employment services and that kind of thing to supplement its staff. So, there are some difficulties there.

Sometimes it is easy and sometimes it is not easy.

Ms. MORELLA. It just seems it would be easier if you could have some kind of uniformity that all agencies would be looking at. I don't know whether you have had any discrimination cases or cases where people have been very dissatisfied with that kind of regulation, lack of regulation, discretion. Have you had any that you know of?

Ms. COOLEY. Well, we don't have a good direct measurement of that, but let me say that, as far as the collective bargaining process

is concerned, of the 7,000 cases that have gone to arbitration and been decided, only four of those cases involved final decisions on grievances from employees relating to questions that would be addressed in this parental leave legislation.

So, we do have that as an indication, and we don't think that it is a very serious problem. I think undoubtedly there would be some circumstances where supervisors may not make a judgment that we would think was the best, but we have other means for dealing with people who aren't performing their jobs——

Ms. MORELLA. Did you say there were 7,000 grievances filed?

Ms. COOLEY. I am sorry. These are grievances that actually go to arbitration, those that can't be resolved at the agency level and go to a third party for an arbitration decision outside the agency. These are the decisions that we keep data on at the Office of Personnel Management.

Ms. MORELLA. But there may be some that did not go to arbitration that do pertain——

Ms. COOLEY. Yes. That would suggest that the grievances were resolved within the agency, although that is not entirely the case, because there is an issue there of cost before someone chooses to go to the arbitration process.

Ms. MORELLA. Right, which probably takes a long time, too.

Ms. COOLEY. Yes, it does.

Ms. MORELLA. Which is a deterrent.

Ms. COOLEY. Yes.

Ms. MORELLA. Thank you very much.

Thank you, Madam Chairman.

Mrs. SCHROEDER. Congressman Ackerman, you had a question?

Mr. ACKERMAN. Yes, just briefly, Madam Chairwoman.

You stated that many agencies have written uniform policies. Would it be possible for us to get copies of those that are written, from whichever agencies those would be?

Ms. COOLEY. Do you mean the features of the collective bargaining agreements, and so on, in every agency? Some of these are uniform on an installation basis, as opposed to, say, all of DOD. It might affect a particular installation in a particular location.

Mr. ACKERMAN. In whichever agencies they may be codified or written, guidelines or regulations, just for comparability. Would we be able to request from you copies of those in those instances?

Mr. COLVARD. Yes, we can check with the agencies, and if that is available, we will make it available to you. I would like to make sure we don't leave the impression here that in fact there is chaos in the process. There is not.

We have a national speed limit of 55 miles an hour. That doesn't mean that traffic on every road in the hills of North Carolina has to proceed at 55 miles an hour. Some of those roads you can't traverse at 55 miles an hour.

In fact, we have an exceedingly generous policy I think the record will show, and we will be happy to collect that record, as well as we can, that it is being well used.

I think the Federal leave system is just about the most generous in the country. And if you really analyzed the open-ended leave without pay policy that we have, I think you would come to the conclusion that it is probably overly generous.

And so, rather than restrict it, we are encouraging people to effectively use it.

Mr. ACKERMAN. Just one additional question, if I might. The number of part time workers has been declining each year in the past five years, I believe, which brings us presently to a total of about 50,000 part time employees throughout the entire government.

Does this indicate a failure in the program of part time employees? And if so, what are we doing to correct that? And if not, is that an indication that there is a systematic program to reduce the number of part time employees?

Mr. COLVARD. There is no systematic program on our part to reduce the number of part time employees. I have no idea whether that data point indicates a trend or a problem. I am not aware of any problem. Are you, Claudia?

Ms. COOLEY. No. And I am sorry, I don't have any data with me on that. I would like to say, however, that I think that in some cases, at any rate, under the flexible schedules program, individuals who used not to have that kind of flexibility, now find it easier to accommodate to an eight hours a day schedule because there is a great deal of flexibility in some agencies which have those programs. So there is now a tool to allow individuals to adjust their hours. And I think this gives some who would like to work full time but weren't able to previously, the ability to do so.

Mr. ACKERMAN. I thank you for that. I will be happy to send you the data that we have. We got it from the Library of Congress. But we would be happy to share that with you. And I am very happy to hear what you said about flex time, having authored that legislation last year. Thank you very much.

Mrs. SCHROEDER. Okay. So, in essence, what we really need from you is how many agencies have specified the terms under which you get parental leave and copies of their policies. Also, please specify how many do not have policies. Our survey showed that there is a tremendous range of leave offered. Lastly, I must say, the whole notion of how you can delay having a baby to get Social Security checks out does amaze me. I think it causes a lot of concern, about how you are administering and what your overview is.

So, if you could get those to the committee, we will proceed and look at that. I thank you.

Mr. COLVARD. We will get you as good data as we can. I think it is going to be complex, for the very simple reason that we have such a wide-ranging leave system combining sick leave, annual leave, and leave without pay.

Mrs. SCHROEDER. But that is our frustration. It is so wide ranging you don't even know exactly what it is. And so, federal employees don't, either. That is why we think this legislation is so needed.

Mr. COLVARD. Determining which portion of our generosity they took advantage of might be difficult to do.

Mrs. SCHROEDER. Thank you very much for being here, and we will look forward to getting that information.

Mr. COLVARD. Thank you.

[The full statement of Mr. Colvard follows:]

STATEMENT OF
HONORABLE JAMES E. COLVARD, DEPUTY DIRECTOR
OFFICE OF PERSONNEL MANAGEMENT

before the

SUBCOMMITTEE ON CIVIL SERVICE AND THE SUBCOMMITTEE
ON COMPENSATION AND EMPLOYEE BENEFITS
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
U.S. HOUSE OF REPRESENTATIVES

on

H.R. 925
THE FAMILY AND MEDICAL LEAVE ACT OF 1987

APRIL 2, 1987

MADAM CHAIRWOMAN, MR. CHAIRMAN, AND MEMBERS OF THE SUBCOMMITTEES:

I AM PLEASED TO APPEAR BEFORE THE SUBCOMMITTEES THIS MORNING TO PRESENT THE ADMINISTRATION'S VIEWS ON H.R. 925, THE FAMILY AND MEDICAL LEAVE ACT OF 1987. I AM ACCOMPANIED BY CLAUDIA COOLEY, THE ASSOCIATE DIRECTOR FOR PERSONNEL SYSTEMS AND OVERSIGHT AT THE OFFICE OF PERSONNEL MANAGEMENT.

THERE HAVE BEEN DRAMATIC CHANGES IN THE AMERICAN WORK FORCE, AND IN THE GOVERNMENT'S WORK FORCE, IN RECENT YEARS. INCREASINGLY, WOMEN HAVE SOUGHT CAREERS, AND MEN AND WOMEN HAVE COME TO SHARE CHILD-CARE RESPONSIBILITIES. TWO-CAREER FAMILIES AND SINGLE-PARENT FAMILIES HAVE BECOME MORE COMMON. AND ALL OF THIS HAS MADE IT INCREASINGLY NECESSARY FOR EMPLOYERS TO RECOGNIZE THAT THEIR EMPLOYEES HAVE FAMILY

RESPONSIBILITIES, AND THAT IT IS IN THE EMPLOYER'S INTEREST AS WELL AS THE EMPLOYEE'S TO EASE THE DIFFICULTIES THAT WORKING PARENTS FACE IN DEALING WITH THESE RESPONSIBILITIES.

LAST YEAR, OPM ISSUED GUIDANCE TO FEDERAL AGENCIES ON THIS SUBJECT, DISCUSSING THE OPTIONS AVAILABLE TO ACCOMMODATE EMPLOYEES' FAMILY NEEDS, AND URGING AGENCIES TO ADOPT COMPASSIONATE AND FLEXIBLE POLICIES. PRESIDENT REAGAN HAS MADE CLEAR HIS COMMITMENT TO STRENGTHENING THE ROLE OF THE FAMILY IN AMERICAN LIFE, AND WE AT THE OFFICE OF PERSONNEL MANAGEMENT ARE COMMITTED TO SUPPORTING THIS POLICY.

WE BELIEVE OUR APPROACH IS WORKING WELL. THE FEDERAL GOVERNMENT HAS A VERY GENEROUS LEAVE SYSTEM, PROVIDING 13 DAYS A YEAR OF PAID SICK LEAVE, WHICH ACCUMULATES WITHOUT LIMIT, AND PAID ANNUAL LEAVE OF 13 TO 26 DAYS A YEAR, UP TO 30 DAYS OF WHICH CAN BE ACCUMULATED AND CARRIED OVER FROM YEAR TO YEAR. WE HAVE BENEFIT PROGRAMS THAT PERMIT THE CONTINUATION OF COVERAGE FOR EXTENDED PERIODS OF LEAVE WITHOUT PAY, AND AN EMPLOYEE WHO IS GRANTED SUCH LEAVE WITHOUT PAY CAN RETURN TO A JOB AT THE SAME LEVEL EVEN IF HIS OR HER OLD JOB IS NO LONGER AVAILABLE. WE HAVE FLEXIBLE WORK HOURS IN MANY PARTS OF THE GOVERNMENT, OFFERING

EMPLOYEES BROAD DISCRETION, WHERE THE CONDUCT OF THE PUBLIC BUSINESS PERMITS, IN ADJUSTING THEIR WORK HOURS TO ACCOMMODATE INDIVIDUAL NEEDS. WE HAVE EXTENSIVE USE OF PART-TIME WORK, PERMITTING MANY MEN AND WOMEN WITH CHILD CARE OR OTHER FAMILY RESPONSIBILITIES TO HAVE A CAREER, TOO.

WE BELIEVE IT IS CLEAR THAT WE HAVE A VERY FINE SYSTEM OF ACCOMMODATING THE NEEDS OF EMPLOYEES WITH FAMILY RESPONSIBILITIES. WE RECOGNIZE THAT CIRCUMSTANCES MAY ARISE WHEN AN EMPLOYEE'S REQUEST FOR LEAVE OR FOR A CHANGE IN WORK SCHEDULE CANNOT BE FULLY GRANTED. HOWEVER, THESE SITUATIONS ARE EXCEPTIONS AND ARE THE RESULT OF THE NECESSARY BALANCING OF AGENCY AND EMPLOYEE NEEDS.

THIS IS THE ESSENCE OF OUR OBJECTION TO H.R. 925: THAT IT ABANDONS ANY EFFORT TO BALANCE THE EMPLOYEE'S NEED FOR LEAVE WITH THE AGENCY'S NEED TO GET THE PUBLIC'S WORK DONE.

TITLE II OF H.R. 925, WHICH IS OF PRIMARY CONCERN TO OPM, WOULD IMPOSE ON THE FEDERAL GOVERNMENT THE SAME SORT OF FAMILY AND MEDICAL LEAVE REQUIREMENTS THAT TITLE I WOULD REQUIRE IN THE PRIVATE SECTOR AND IN STATE AND LOCAL GOVERNMENT. HOWEVER, THE PROVISIONS OF THIS TITLE WOULD

IMPOSE ON FEDERAL MANAGERS SIGNIFICANTLY MORE ONEROUS RESTRICTIONS ON MANAGEMENT FLEXIBILITY THAN ARE PROVIDED IN TITLE I FOR THE PRIVATE SECTOR AND STATE AND LOCAL GOVERNMENTS.

THE MOST STRIKING EXAMPLE OF THIS IS THE PROVISION IN TITLE II GRANTING A FEDERAL EMPLOYEE WHO USES MEDICAL OR FAMILY LEAVE AN ABSOLUTE RIGHT TO BE RESTORED TO HIS OR HER SAME POSITION--NOT JUST AN EQUIVALENT POSITION AS IN TITLE I--AFTER USING THE LEAVE. THIS PROHIBITION ON REASSIGNMENT IS A RIGHT THAT IS NOT AFFORDED TO OTHER EMPLOYEES, NOT EVEN, FOR INSTANCE, TO VETERANS RETURNING FROM MILITARY SERVICE. WHILE RESTORING AN EMPLOYEE TO HIS OR HER SAME JOB WOULD OFTEN NOT BE A PROBLEM, AND USUALLY OCCURS UNDER OUR CURRENT SYSTEM, THERE WOULD BE CASES WHERE THIS WOULD HINDER AN AGENCY'S ABILITY TO PERFORM ITS MISSION. FOR EXAMPLE, AN EMPLOYEE IN A SPECIALIZED POSITION MIGHT NEED TO TAKE FREQUENT OR INTERMITTENT LEAVE OVER A LONG PERIOD OF TIME TO DEAL WITH A FAMILY OR PERSONAL MEDICAL PROBLEM. YET THE AGENCY WOULD BE ABLE TO FILL IN BEHIND THE EMPLOYEE ONLY ON A TEMPORARY BASIS, REGARDLESS OF THE AMOUNT OF TRAINING THAT MIGHT BE REQUIRED FOR THE JOB. THIS WOULD INHIBIT THE EFFICIENT AND EFFECTIVE DELIVERY OF GOVERNMENT SERVICES TO THE PUBLIC.

WHILE TITLE II DOES REQUIRE AN EMPLOYEE WHO HAS A FORESEEABLE NEED TO USE FAMILY OR MEDICAL LEAVE TO MAKE A REASONABLE EFFORT TO INFORM THE AGENCY IN ADVANCE OF THIS NEED, IT GRANTS THE EMPLOYEE A UNILATERAL RIGHT TO SCHEDULE AND TAKE THE LEAVE. THIS SITUATION LIMITS THE AGENCY'S OPTIONS FOR DEALING WITH THE ABSENCE AND COULD RESULT IN UNFAIR BURDENS ON CO-WORKERS.

WITH RESPECT TO THE PROVISIONS OF H.R. 925 DEALING WITH THE PRIVATE SECTOR, THE ADMINISTRATION BELIEVES THE BILL WOULD BE A COUNTERPRODUCTIVE INTRUSION INTO THE LABOR MARKET AND INTO THE RIGHTS AND RESPONSIBILITIES OF PRIVATE SECTOR EMPLOYERS. WE BELIEVE THAT PRIVATE SECTOR EMPLOYERS AND EMPLOYEES, IN LABOR MARKET COMPETITION OR IN UNION NEGOTIATIONS, SHOULD BE FREE TO CONSIDER THESE BENEFITS IN RELATION TO OTHER COMPENSATION OPTIONS. MOREOVER, THE BILL WOULD CREATE A FEDERAL INTRUSION INTO THE TRADITIONAL RESPONSIBILITIES OF THE STATES TO TAKE ACTIONS WHERE APPROPRIATE TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF THEIR CITIZENS.

THE ADMINISTRATION IS DEEPLY SUPPORTIVE OF EFFORTS TO STRENGTHEN THE ROLE OF THE FAMILY IN AMERICAN LIFE, AND TO SUPPORT INDIVIDUALS IN THEIR EFFORTS TO MEET FAMILIAL

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OBLIGATIONS. WE RECOGNIZE THAT, IN THIS AGE OF MANY TWO-CAREER AND SINGLE-PARENT FAMILIES, IT HAS BECOME VERY IMPORTANT FOR THE GOVERNMENT AS AN EMPLOYER TO BE COMPASSIONATE AND FLEXIBLE IN ACCOMMODATING EMPLOYEES' NEEDS. IT IS ALSO ESSENTIAL, HOWEVER, TO PRESERVE ADEQUATE MANAGEMENT AUTHORITY TO ENSURE THAT THE CRITICAL BUSINESS OF THE GOVERNMENT IS CARRIED OUT. WE FEEL THAT CURRENT LEAVE POLICIES, IN COMBINATION WITH RECENT OPM GUIDANCE ON PARENTAL AND MEDICAL LEAVE, REPRESENT A REASONABLE BALANCE BETWEEN INDIVIDUALS' NEEDS FOR LEAVE AND ACCOMPLISHMENT OF THE PUBLIC'S WORK.

SINCE H.R. 925 DOES NOT STRIKE SUCH A BALANCE AND COULD JEOPARDIZE THE EFFECTIVE DELIVERY OF GOVERNMENT SERVICES TO THE PUBLIC, WE ARE STRONGLY OPPOSED TO ITS ENACTMENT.

THANK YOU. I WOULD BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Mrs. SCHROEDER. The next witness we have this morning is one of my great folk heroes, and I am very delighted she is here. We only wish she were still head of the Equal Employment Opportunity Commission, because we may not have had to have these hearings.

Eleanor Holmes Norton is a Professor of Law at Georgetown University and was the former Chair of the EEOC.

Eleanor, we welcome you. We know that you wear dual hats, that you are also a parent, too. So, we appreciate hearing what you have to say about this issue, and thank you for being here.

We will put your whole statement in the record. You can summarize or do whatever you would like.

STATEMENT OF ELEANOR HOLMES NORTON, PROFESSOR OF LAW, GEORGETOWN UNIVERSITY: FORMERLY, CHAIR, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Ms. NORTON. Thank you very much, Chairwoman Schroeder, distinguished members of the committee.

I am pleased to be here to testify in favor of H.R. 925.

Today I am representing a broad range of women's and civil rights groups and trade unions, 31 in number, a list of which is appended to my statement.

To the organizations in whose behalf I appear, the FMLA is a major priority because it would give a much needed, concrete benefit to working women and men, including federal workers, and through them to hard- pressed American families.

This is historic legislation. In a country in which most legislation aids individuals, H.R. 925 is notable for the way it strengthens the support system of the family.

Because working women continue to bear disproportionate responsibility for the nuts and bolts of family life, H.R. 925 may be viewed as feminist legislation. It is that and it is much more.

It is perhaps the first piece of overtly family legislation.

It is difficult to think of legislation passed in the last 30 years to benefit women that has had a greater impact on the wellbeing of the American family than Title VII of the 1964 Civil Rights Act, it was my great privilege to administer, and other legislation guaranteeing equal employment opportunity to women. Yet none of that legislation was as explicitly for the benefit of the family as the FMLA.

This legislation, as much as any you have had before you, makes clear the inescapable link between benefits for working women and benefits for the entire family.

The disarray in much of family life in the United States today has proceeded from the economy's demand that women work, coupled with the society's failure to accommodate its institutions to this economic reality.

As women's labor force participation skyrocketed, other societies moved quickly to provide support systems for families with two working parents. Several European countries, including France, Italy and Britain, instituted some form of national maternity insurance for working women prior to World War I. They and many

other countries have maintained and expanded these policies through the economic vicissitudes of this centry.

Today, 75 countries have enacted laws providing for maternity benefits, including paid leave before and after childbirth, and free health and medical care for pregnancy and childbirth. Many have explicit family policies that go far beyond maternity leave and encompass child care provision, housing and health services to support families.

The pervasiveness of such legislation throughout the world makes all the more remarkable this country's failure to acknowledge, through legislation, the necessity to accomodate work and family needs.

Working parents are lucky if they can find safe, healthy, affordable care for their children while they are at work. Working parents are lucky if they do not lose their jobs when they are unable to work because of their own serious medical conditions, and luckier still if during such absences they receive any sort of wage replacement with which to put food on the table.

They are lucky if they do not lose their jobs when they want to take time off from work to be with a newborn or a newly adopted child, or to care for their parents or other adult relatives who are seriously ill. And very few are lucky enough to receive any sort of wages during such family leave.

None of this should be a matter of luck in an advanced 20th century democracy that claims to care about family life.

The record established at the hearing on H.R. 4300, the 99th Congress predecessor of H.R. 925, held by these subcommittees one year ago shows that this description fits federal employees, as well.

If they exhaust the 13 days of sick leave and 13 to 26 days of annual leave that they accumulate each year, federal employees have no guarantee they can return to their jobs if they need to take off more time for serious health or family reasons.

Because these matters remain discretionary, the availability of leave without pay, the reaons for which leave without pay will be granted, the conditions of the leave, and the length of the leave, vary widely from agency to agency, and often from supervisor to supervisor within the same agency.

Not only is this an entirely unsatisfactory policy for federal workers, but the federal government operates at risk of liability for invidious discrimination if it operates on an agency-by-agency, supervisor-by-supervisor basis.

In fact, in its survey of federal agencies, the Subcommittee on Civil Service found that the lack of consistency leads to differences between how men and women are treated with regard to leave to care for newborn or newly adopted children.

We would advise that this constitutes a systemic difference in provision of a job benefit that makes out a prima facie case of violation of Title VII of the 1964 Civil Rights Act.

It is true that, as a result of these subcommittees' hearings, the Office of Personnel Management on July 8, 1986 issued new personnel guidance on leave for parental and family responsibilities, which encourages federal managers to make leave without pay available for family leave, including for adoption and foster care, for routine and emergency medical care for children, and for elder-

ly parents and other dependents. This new guidance represents progress, but it far from solves the problem for federal employees.

Most important, it is only guidance, not regulation. It does not give federal employees a minimum standard of leave to which they are all entitled.

OPM, for example, has issued regulations requiring agencies to allow employees to use sick leave to care for members of their immediate families who have contagious diseases. It can and shoutd go beyond this, and issue specific regulatory requirements for family leave, as well.

Moreover, this guidance was issued only to agency heads. Because the importance of family leave for family reasons for all employees, including men, is only now coming to be recognized, it is not enough to inform only supervisors of the new guidelines. There ought to be some notification to employees, so that they can be aware of their right to take advantage of the new policy.

Indeed, most federal employees today probably would be surprised to learn that their supervisors are now supposed to be sympathetic to their requests for family leave.

As a general matter, without structures in place to help American families deal with the need for both parents to be breadwinners, the burden has been absorbed disproportionately by working women.

According to a Department of Health and Human Services estimate, 2.2 million people, predominantly women, cared for 1.2 million frail elderly people in 1982. Approximately one million of them were employed for some time during the care-giving experience. And this, of course, is in addition to the more familiar figures for mothers with children who are young.

Reliance on healthier family members is often the most cost-efficient and desirable way to care for the elderly. But this care cannot be rendered with mirrors. If no accommodation to this need is made on the job, the result will almost surely be an increasing shift of care to high cost, professional institutions, much of it at taxpayers' expense.

We note here a major deficiency of H.R. 925, its failure to provide leave for employees to care for elderly spouses or close family members, other than parents. Even the OPM guidelines define family member more broadly than does H.R. 925, although their limitation to dependents is also troublesome.

We urge the subcommittee to expand the definition of family leave to rectify this omission.

The most immediate cost, the greatest hardship of the legislative vacuum is that working women and men not infrequently lose their jobs when they need to take family or medical leave.

For the single parent, usually a woman, losing her job when she is unable to work during a time of serious health condition, or because one of her children is seriously ill, can often mean borrowing beyond prudence, going on welfare, or destitution for herself and her family.

Indeed, it is hard to understand how single parents, who have no choice but to work to support their families, have survived under the present system.

For this highly vulnerable group, whose numbers have exploded, a job guarantee for periods when they or their children have serious health conditions is urgently necessary. The high rates of single parenthood among minority families and of labor force participation by minority single mothers make job-guaranteed leave especially critical for minorities.

Even for the two parent family, job-guaranteed leave is essential to continued family and financial stability. In these families, too, most women work.

If it is serious if the mother loses her job, it is catastrophic if the father loses his job. They both work because they cannot live on the father's full-time income alone. How, then, are they to live only on the mother's full time salary, which is on the average about 63 percent of the man's salary, or worse, on her part time salary?

At the very least, if the father in such families is temporarily unable to work, his job too should be restored after he recovers.

Beyond such immediate costs, the long range costs of our society's failure to accommodate work and family responsibilities are of such scope that we can only guess at their magnitude.

We know of the awesome physical and emotional drain placed on working parents who must balance work and family responsibilities without any societal help. The experts speak eloquently to that, especially of the impact on new mothers who must worry about their job security and about having time to bond with their infants and guide them as they grow.

But we do not yet know what the consequences of this stress will be on our children's emotional and physical health, and on society-at-large in the next generation.

We know that people lose their jobs and suffer major economic hardship when their employers refuse to provide family or medical leave. But we do not know what the long term effect of this will be on the structure of unemployment or on the Social Security system.

We know of the high incidence of single parenthood and of poverty, especially among blacks and other minority groups, and of a new generation of children growing up poor, often perpetuating a generational cycle of poor health, reduced opportunities, dependency and despair. But the consequences for the country's economic and social stability can only be feared.

The Family and Medical Leave Act takes only the most modest step toward mitigating hardships on families when work, family and health priorities conflict temporarily.

H.R. 925 protects against only the most egregious financial disaster that families may suffer at times of medical or family need, job loss. The law would mandate no salary replacement.

When the proposed act is compared to the national family and medical leave policies in place in many industrialized and Third World countries, we must blush at just how modest it truly is.

In most of these countries, paid maternity leave is routine. Some countries are moving toward maternity leave and to grant paid paternity leave, as well.

In urging passage of this legislation, we are not seeking the 38 weeks of 90 percent paid leave, with up to 12 more unpaid weeks, that new mothers get in Sweden, or the 20 weeks of maternity

leave at 80 percent of earnings available in Italy, or the 16 weeks at 60 percent of earnings available in Japan, or the fully paid 45 days available in the Philippines.

We are seeking for American families the bare minimum, and it is simply not arguable that they deserve and need at least that.

Our chief regret about this legislation is that fiscal and political realities have forced us to accept a step that is in this way decades behind comparable countries and the needs of American families.

For this reason, we strongly support the bill's establishment of a Commission on Paid Family and Medical Leave to make recommendations about means of funding paid leaves, perhaps through some form of insurance.

We can only express our amazement that even the bare-bones requirements of this legislation have provoked opposition, when there is no evidence that, with zero population growth, temporary leaves will increase the incidence of people taking family or medical leaves, and when the legislation has already been compromised to exempt those small companies which might claim hardship.

Allegations of loss in productivity or other financial hardship are not only unsupported, the opposite may well be the case. As large companies which offer even paid leaves have already found, these leaves would preserve employer investment in experienced workers who return after temporary leaves.

In the past, business has never hesitated to come forward with concrete evidence of hardship. It has offered no credible evidence of hardship as to this legislation because it incorporates a virtually no cost minimum labor standard.

Employers either will give the work to co-workers for the brief time that will usually be involved, or obtain temporary workers from the highly qualified pool of temps that are available today.

One of the fastest growing industries are companies providing high quality temporaries. For their own purposes, of course, businesses have used such temporaries for years, when they need workers to perform contracts they have won to do additional work, for example, or when someone leaves and cannot immediately be replaced.

This legislation would require no changes in business-as-usual.

There is another important reason for our support of the FLMA's broad provisions.

The recently decided Supreme Court Decision in *California Federal Savings and Loan Association* v. *Guerra* is especially crucial for single mothers like Lillian Garland, the original charging party in that case. Such mothers risk losing their jobs when they are temporarily unable to work because of pregnancy and childbirth unless they have protections like the California maternity-disability leave statute that the Court upheld in that case.

But that decision marks the first time that employers can even argue that because of a special burden attached to hiring women, business necessity requires them not to hire women, at least for some jobs.

We reject this argument categorically. The proposed leave is a no cost benefit. Even if it bore a cost, cost is not a defense under existing anti-discrimination legislation. And, of course, it is unlawful to discriminate in this manner on the basis of sex.

In any case, employers can and usually deal easily with employees' absences by dividing their work or hiring temporaries. They do it for men, and for nonmaternity related absences, regularly.

The fact reamins that if Cal Fed becomes the model, employers will provide something for women affected by pregnancy that they are not required to provide for other employees.

This gives fodder to those who seek to discriminate against women in emoloyment. This society does not need any additional incentives for discrimination.

In the *Cal Fed* case, I would have preferred the interpretation urged by the National Organization for Women, the American Civil Liberties Union, the League of Women Voters, the National Women's Political Caucus, the Women's Legal Defense Fund, and other women's and civil rights groups, that would have required employers subject to the California law and to the federal Pregnancy Discrimination Act to comply with both laws by providing job guaranteed leave for maternity related difficulties and for other disabilities alike.

Indeed, these organizations jointly petitioned for additional time to allow me to present this position before the Supreme Court at oral argument in the *Cal Fed* case.

Regrettably, the Supreme Court denied our motion, perhaps not surprising. Perhaps they didn't want to hear from me, in particular. But they often deny motions for additional argument time.

It upheld the California statute without explicitly requiring disability leave be extended to non-pregnancy related disabilities.

The result is that there is at least the limited protection of maternity disability leave for women in 11 states. But the ironic possibility of discrimination against women because of this extension to one sex only is real.

On the very day that the *Cal Fed* decision came down, National Public Radio reporter Nina Totenberg interviewed Don Butler, President of the Merchants and Manufacturers Association, one of the parties that had challenged the California statute and lost. He deplored the decision's impact on business, and added, and I am quoting him:

"The other side effect of the decision is many employers will be prone to discriminate against women in hiring and hire males instead and not face the problem."

Shocked, Ms. Totenberg replied, "But that is illegal, too." His response, "Well, that is illegal, but try to prove it."

And, unfortunately, we are afraid he is right.

Although the groups I represent and others like them will closely monitor employers' practices for sex discrimination, their efforts will not and can never be enough.

Proving discrimination in the best of circumstances is difficult for plaintiff, who must bear not only the legal burden of proof but also the enormous practical barriers of hiring a lawyer and bringing suit. And even if she succeeds in overcoming these barriers and wins, her relief will necessarily be delayed substantially.

In the present climate of diminished federal EEO enforcement, would you like to take your chances on prevailing on a sex discrimination charge after having been denied a job?

Yet if the California maternity leave statute becomes the model for state legislation, that is precisely the situation in which many women will find themselves. And this model will undoubtedly proliferate unless the United States Congress provides leadership and guidance toward a more comprehensive and effective model.

As more and more states consider maternity or family leave type legislation—and our research shows that legislation has been or is being introduced in approximately 25 states—the resulting patchwork of employer regulation should compel a federal standard.

The *Cal Fed* decision is an attempt to help the working woman catch up. But that is not enough.

The U.S. economy has sustained our standard of living only by sending women to work and stretching the entire family to its limits.

Perhaps now that the effects of this are beginning to be felt, now that 19 percent of all households are headed by single parents, now that half of all black children and 40 percent of all hispanic children are living in poverty, now that the feminization of poverty has become a day-to-day phenomenon, perhaps now we will be willing to face the consequences of the choices we have made as a nation and to take a much needed first step toward a national policy for families and work.

We live in a time when work outside the home has become routine for those whose sole work was responsibility for the family a generation ago.

It is time we supported the American family with more than pro family rhetoric. We think that H.R. 925 is a first step toward doing just that.

Thank you very much.

[The supplemental statement of Professor Norton follows:]

SUPPLEMENT TO
TESTIMONY OF ELEANOR HOLMES NORTON

In Support of the Family and Medical Leave Act

Before the Committee on Post Office and Civil Service
Subcommittees on Civil Service and
Compensation and Employee Benefits
U.S. House of Representatives

Analysis of the Family and Medical Leave Act

1. The Requirement of Temporary Medical Leave. The bill requires employers to provide "temporary medical leave" of up to 26 weeks a year to those employees who are unable to work because of a "serious health condition" (Sec. 104(a)). Employees who take such leave are guaranteed their job or an equivalent position when they return to work (Sec. 107(a)(1)).

This provision is an essential component of providing reasonable and adequate job security for all employees on a non-discriminatory basis. For purposes of the bill, the measure of whether an employee is entitled to such leave is a simple two-fold test: first, is the employee "unable to perform the functions of [his or her] position"? and second, is the inability to perform those functions due to a "serious health condition"?[1] Conditioning availability of the leave on this test ensures both (1) that the leave provided does not encourage discrimination on the basis of sex, and (2) that people who need it the most--people with serious medical conditions that prevent them from working for a limited period of time--have adequate job

[1] "Serious health condition" is defined in sec. 101(9) and is discussed at greater length infra. It should be noted that this test does not distinguish "voluntary" from "involuntary" medical conditions.

security.

The bill's simple two-fold test for availability of leave means that employers will be required to treat employees affected by pregnancy, childbirth, and related medical conditions in the same manner as they treat other employees similar in their ability or inability to work--in harmony with their obligations under the Pregnancy Discrimination Act of 1978. Faced with the knowledge that job-protected leaves were required for working mothers and working mothers only, employers would very likely be reluctant to hire or promote women of child-bearing age. Under the proposed legislation, however, because employers would be required to provide job-protected leaves for all employees in circumstances that affect them all approximately equally,[2] they would have no incentive to discriminate against women.

The twin tests of inability to work and serious health condition also serve the second objective of the FMLA: to ensure the leave's availability to those people who need it the most and who are the least likely to be covered by existing job protections. It is generally true in the American workforce that employees are not fired if they are out sick for a short time--e.g., for a cold or the flu. Indeed, most companies provide paid

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[2] Statistics on the incidence of loss of work due to medical reasons show that men and women are out on medical leave approximately equally: men workers experience an average of 4.9 days of work loss due to illness or injury per year while women experience 5.1 days per year. National Center for Health Statistics, C.S. Wilder, ed., Disability Days, United States, 1980 6 (Series 10-No. 143, DHHS Pub. No. (PHS) 83-1571) (hereinafter, "Disability Days").

sick leave for such contingencies.[5] But leave policies for more serious or extended medical reasons are less uniformly provided, and standards for their provision are often unclear or ad hoc.[6] The unfair result is that women and men who are temporarily unable to work for serious health reasons may frequently lose their jobs.[7] These employees include those with permanent disabilities who are fully competent and able to work, but who may require leave to address medical complications associated with their conditions. For example, an employee with arthritis who periodically requires physical therapy to continue to do his or her job would be permitted leave under the bill for that purpose. Thus, the proposed legislation would provide minimum job protection for all similarly-situated employees, so long as their inability to work is due to a "serious health condition."

The term "serious health condition" is defined in Sec. 101(9) of the bill to mean--

> an illness, injury, impairment, or physical

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[5] U.S. Department of Labor, Bureau of Labor Statistics, Employee Benefits in Medium and Large Firms 21, Table 12 (1983); Catalyst Report at 27.

[6] Many employers do provide job-guaranteed leave for extended medical absences; many have programs whereby employees receive full or part salary during medical leaves, either through self-insurance policies, short-term temporary disability insurance ("TDI") plans, state TDI programs, or some combination of these. But these provisions are far from uniform, and they may vary even within one company.

[7] A corollary is that women who are temporarily unable to work due to pregnancy, child-birth, and related medical conditions such as morning sickness, threatened miscarriage, or complications arising from childbirth, often lose their jobs because of the inadequacy of their employers' leave policies.

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or mental condition which involves--

(A) inpatient care in a hospital, hospice, or residential medical care facility, or

(B) continuing treatment or continuing supervision by a health care provider.

This definition is intentionally broad, to cover various types of physical and mental conditions, such as cancer, heart attacks, and arthritis, for which employees may need leave.* And unlike definitions in traditional leave policies, which often focus on "sick leave" that is necessary to "restore" an employee to health, the serious health condition definition abandons any superficial distinctions between "sickness" and "disability" and adopts instead a functional standard that turns on an employee's actual need for the leave.

It should be noted that under this definition, the illness or condition must involve care or continuing treatment or supervision at some point during the condition; the employee need not be an inpatient or undergoing treatment or supervision at the very moment of the leave in order to qualify as having a "serious health condition." Thus, an employee with a heart condition may require leave as a means of temporarily relieving the stress associated with work in order to obtain a medically necessary

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* The definition also clearly covers pregnancy and childbirth and all attendant conditions, since they generally involve inpatient care and always should involve continuing supervision by a health care provider.

rest.'

Nor need an employee actually be incapacitated by his or her serious medical condition itself in order to qualify for the leave; it is enough if an employee who has a serious health condition needs to undergo medical treatment and is not able to work only in the sense that he or she needs to be out of work to obtain that medical treatment. One example is the arthritic employee described supra; another is an employee who must leave work for a prenatal examination, which would trigger leave under this section because (a) for the period of the examination, she is unable to work, and (b) she has a serious health condition--pregnancy."

Furthermore, as is apparent from the foregoing, the definition is broad enough to cover inabilities to work arising

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' Similarly, a woman with severe morning sickness due to pregnancy who was unable to work as a result would qualify for leave under this provision, even if she need not go to the hospital or the doctor to treat the condition each day that she suffers from it.

" Moreover, to qualify the "serious health condition" must be one which generally "involves" inpatient care or continuing medical treatment or supervision, even if in a particular situation the individual does not receive such care or treatment or supervision. For example, a medically indigent woman might not be able to afford to receive any medical treatment or supervision for her pregnancy until the very day of childbirth. But her pregnancy would nevertheless be a "serious health condition" within the meaning of the statute because it will involve or generally involves the requisite medical care.

In cases in which it is initially unclear whether an employee's inability to work is due to a "serious health condition" within the meaning of the definition, of course, the employer would have to provide leave until the nature of the condition becomes apparent.

out of a serious health condition even if those inabilities do not occur consecutively. The availability of temporary medical leave on an intermittent basis is made explicit in Sec. 104(a)(2). Indeed, serious health conditions often occasion intermittent periods of inability to work: chemotherapy and difficult pregnancies are the classic examples.

The data on days of work lost due to illness or injury cited above show that employees are unlikely to need to use temporary medical leave for extended periods of time: the current average is 5.0 days per year. Nevertheless, the bill contains several features that protect against excessive use of temporary medical leave. The first such feature is the limitation to "serious health conditions." Conditions that do not involve inpatient care or continuing medical treatment or supervision are not covered under the proposed legislation. These include, of course, those conditions most commonly experienced, such as the common cold, the "flu," or such minor medical procedures as extraction of wisdom teeth. The key distinction between these conditions and those that are covered is that although these minor matters may require some medical treatment or supervision, they do not normally involve continuing medical treatment or supervision.*

A second limitation on the use of temporary medical leave is provided by its restriction to 26 weeks a year. Even if an

* Of course, should such conditions require inpatient care or continuing medical supervision or treatment, they would be covered.

employee has a serious health condition within the meaning of the statute and is unable to work because of it, temporary medical leave need not be provided for more than a total of 26 weeks a year.

Third, employers may require their employees to provide medical certification that they are unable to work due to a serious health condition as a condition of obtaining temporary medical leave (sec. 106). The proposed law sets out criteria for sufficient certification that will, if met, assure the employer of the truth of its employees' claims for medical leave without imposing unduly burdensome requirements on employees. Thus, any certification required is to be made by the employee's own health care provider; but the employer may, at its own expense, require the employee to get a second opinion (sec. 106(d)). The specific information which must be contained in the certification--including the date of commencement of the serious health condition, its probable duration, and the medical facts regarding that condition (sec. 106(b))--is the type and extent of information routinely required of health care providers by insurance carriers presently and thus should involve virtually no changes in the way doctors and other health providers currently do business. Further to protect the employer, it may also request that the certification include an explanation of the extent of the employee's inability to work (sec. 106(c).

Finally, of course, the fact that the leave is unpaid provides an unfortunate check on employees' abuse of it.

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2. The Requirement of Family Leave. The bill requires employers to provide "family leave" of up to 18 weeks every two years to employees in connection with the birth or adoption of a child of the employee or to care for his or her child or parent who has a "serious health condition" (sec. 103(a)(1)). Like employees who take temporary medical leave, employees who take family leave under the bill are guaranteed their job or an equivalent position when they return to work (sec. 107(a)).

This provision provides something in addition to job-guranteed leave for employees for their own serious health conditions. It allows people to take time off from work to care for their closest family members--their children or their parents--secure in the knowledge that they can return to their jobs after the need for their presence has passed (as long as the total period that they are on leave from work does not exceed 18 weeks).

As to that part of "family leave" that is available to parents for the care of their children, it is not available at any time during the life of a parent-child relationship. Rather, "family leave" for parenting is available only in three specified circumstances: because of the (a) birth, (b) placement for adoption or foster care, or (c) serious health condition, of a child of the employee. Moreover, it is available in the last of these three circumstances only if the employee uses it "to care

for" the child (sec. 103(a)(1)).

Preserving the bill's general commitment to sex equity, this leave is of course available to any parent, regardless of sex. Thus a father as well as a mother can take parental leave because of the birth of his child; fathers and mothers could choose to take their respective leaves at the same time, or on an overlapping basis, or sequentially, as long as they take it "because of" one of the circumstances specified in the statute.'* Perhaps one of the most cherished hopes of the proponents of the bill is that increasing numbers of fathers will avail themselves of the opportunity to care for their newborn or newly adopted children, and share in the emotional rewards of so doing. Indeed, in Sweden, where parental leave has been available to both parents since 1974, the percentage of men taking such leave rose from 3% to 22% in seven years.''

Similarly, that part of "family leave" that is available for an employee to care for his or her parent who has a serious health condition is, of course, available to both male and female employees.

The availability of as much as 18 weeks for family reasons is necessary to accomodate the various family needs that childbirth, adoption, and serious health conditions of a child or

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'* Leave because of a child's birth or placement for adoption or foster care must be taken within one year of such birth or placement. Sec. 103(a)(2).

'' Bureau of National Affairs, Work and Family: A Changing Dynamic 174 (1986).

other family member entail. Eighteen work weeks, or approximately four calendar months, is the minimum period that child development experts suggest for newborns and new parents to adjust to one another. The Yale Bush Center recommends a leave for a minimum of six months.'' This recommendation applies with equal force to adoption; indeed, some adoption agencies require that a parent stay home with a newly-adopted child for some such period of time. Moreover, part of new parents' task during this period of adjustment is to make safe and adequate day care arrangements for their infant or newly-adopted child. Given the inadequacy of existing day-care options, 18 weeks is a realistic projection of the needs of working parents.

By the same token, the availability of as much as 18 weeks to care for a child who has a serious health condition is essential if children are to have the attention of their parents during such times of crisis.'' If a child must undergo major surgery, eighteen weeks may be necessary to encompass the surgery

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'' Recommendations of the Yale Bush Center Advisory Committee on Infant Care Leave 3 (1985).

'' The same definition of "serious health condition" that triggers an employee's own temporary medical leave under sec. 104 applies to determine whether an employee may take family leave under sec. 103(a)(1)(C). Thus, a child's medical needs must be quite serious in order to give his or her parents the right to take off time from work under the legislation as written. This leaves a large and troublesome loophole in families' protection under the bill, for unless an employer permits its employees to use their own sick leave to care for children who are "just" sick, employees may lose their jobs in such circumstances. Only 36% of companies that Catalyst surveyed permit employees to use their sick days for children's illnesses, and another 51% oppose the practice. Catalyst Report at 78.

itself and the subsequent recuperation period during which at least one parent must stay at home to nurse and care for the child. Similarly, if a child's serious health condition requires that the child receive specialized services at school or be placed in a different school setting that provides those services, the parents may need the kind of leave provided by the FMLA--and which is not otherwise provided by traditional leave policies--to make satisfactory arrangements.'*

Further, for parents of children with disabilities, the choice as to whether to keep them at home or to place them in institutions will often depend upon whether the parents are able to keep their jobs yet obtain sufficient leave to provide their children with the support and assistance they require.

Similarly, up to 18 weeks may be necessary for employees who need to care for and make arrangements for their aged parents who have serious health conditions.

Many children in the United States today do not live in traditional "nuclear" families with their biological father and mother. Increasingly, the people who care for children--and who therefore find themselves in need of workplace accommodation for their childcare responsibilities--are these children's adoptive, step-, or foster parents, or their guardians, or sometimes simply their grandparents or other relatived or adults. The legislation ensures that such families are covered by tying the

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'* Cf. Education of the Handicapped Act, 20 U.S.C. Sec. 1401.

availability of family leave to the birth, adoption, or serious health condition of a "son or daughter," or to the serious health condition of a "parent;" the term "son or daughter" is defined to mean "a biological, adopted, or foster child, stepchild, legal ward, or child of a de facto parent..." (sec. 101(10)), and the term "parent," similarly, is defined to mean "a biological, foster, or adoptive parent, a parent-in-law, a stepparent, or a legal guardian" (sec. 101(11)). These definitions will ensure that the employees who are entitled to family leave are as a practical matter the people who have the actual, day-to-day responsibility for caring for a child or parent, or who have a biological or legal relationship to the child or parent. Thus an employee who lives with, cares for, and acts as parent to her grandchild would be entitled to family leave should the child need care for a serious health condition, as would an employee who is divorced from his child's mother and does not have custody of the child.'*

For an employee to be eligible for leave to care for a child, that child must be under 18 years of age unless he or she

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'* The definition of parent finds precedent in a similar definition in the federal regulations implementing the Education for Handicapped Children Act, supra. In defining the term, the Department of Education explained--

> The term "parent" is defined to include persons acting in the place of a parent, such as a grandmother or step-parent with whom a child lives, as well as persons who are legally responsible for a child's welfare.

42 F.R. 42479.

is "incapable of self-care because of mental or physical disability" (sec. 101(10)).'* This provision recognizes that some parents may need to take time off from work to care for the serious health conditions of their sons and daughters who have reached legal maturity, but are incapable of self-care. Many parents will take advantage of this leave to help adult sons and daughters who are experiencing serious health conditions to establish independent living arrangements in, for example, group homes and other residential facilities that provide support services.

Because so many new parents wish to work part-time for some period of time after the birth or adoption of a child.'' and because care for seriously ill children or parents can sometimes be scheduled on a part-time basis, the bill permits family leave to be taken on a "reduced leave schedule," as long as the total period over which the leave is taken does not exceed 36 weeks (sec. 103(b)). This permits new parents or others taking family leave to work half-time for double the length of full-time leave permitted; and the flexibility of the "reduced leave schedule" definition allows other arrangements at the employee's option.'*

'* This provision would only come into play for family leave to care for a son or daughter who has a serious health condition under sec. 103(a)(1)(C).

'' Catalyst Report at 53.

'* The term "reduced leave schedule" means leave scheduled for fewer than an employee's usual number of hours per workweek or hours per workday.

Sec. 101(7). Under this definition, it is clear that such part-

Similarly, this flexibility may be extremely important to employees taking family leave to care for children or parents who have serious health conditions--for example, if they can arrange for alternative nursing care for only part of a day, or if they must miss work once every two weeks to take a child or parent for chemotherapy treatment.

An employer may deny a reduced leave schedule only when it would "disrupt unduly the operations of the employer" (sec. 103(a)(2)(B)). To show such undue burden, employers will have to show by clear and convincing evidence a substantial interference with their business operations; mere cost will not be enough.'' This standard fairly reconciles employees' need for the part-time option with employers' need for stability and predictability in their workforces. Indeed, many employers now find that part-time work by a formerly full-time employee is a useful and satisfactory way to deal with leaves of absence and the inevitable transitions attendant thereto.'' Rather than disrupt their operations, the vast majority of employers should find that

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time work must be scheduled--i.e., an employee must establish a routine and regular schedule of work. This further protects employers from unpredictability in their workforce.

'' Mere cost is not a defense under the FMLA for the same reasons as cost may not be used to justify unlawful discrimination under Title VII of the 1964 Civil Rights Act: to permit such a defense would frustrate the remedial purposes of the statute. Cf. Newport News, supra, 462 U.S. at n. 26; Los Angeles Dept. of Water and Power v. Manhart, 435 U.S. 702, 716-17 (1978).

'' Sixty percent of the companies surveyed by Catalyst have allowed some employees to return to work part-time. Catalyst Report at 53-54.

a part-time schedule f employees returning from family leave actually enhances their ability to manage their workloads.

3. Employment and Benefits Protection. The job guarantee of the FMLA is contained in section 107, which requires that any employee taking either temporary medical or family leave is "[u]pon return from [such] leave...entitled--to be restored" to his or her previous position or to "an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment" (sec. 107(a)).

To accomplish the central Congressional purpose of providing job security to workers taking such leaves, the first choice is to restore them to the positions they held when the leave commenced. If that is not possible, the standard for assigning employees returning from leave to jobs other than the precise positions which they previously held is, appropriately, a tough one. First, the standard encompasses all "terms and conditions" of employment, not just those specified. Thus such significant aspects of the employee's previous position as working conditions, office assignment, place in chain of command, number of people the employee supervises or is supervised by, geographic location, and task responsibility all must be maintained in any alternative position to which an employee returning from leave is assigned.'' Second, the standard of "equivalence"--not merely

'' The FMLA's standard for evaluating job equivalence under Sec. 107(a)(1)(B) parallels Title VII's standard for evaluating employment practices (in Sec. 703(a)(1), 42 U.S.C. 2000e-

"comparability" or "similarity"--necessarily implies that a strict correspondence to these terms and conditions of an employee's previous position is required.

4. Enforcement. Because the periods of temporary medical and family leave are relatively short, the system set up to ensure their availability requires: (1) a readily-available enforcement mechanism that can be accomplished very quickly; and (2) effective deterrents to failure to comply with the provisions of the statute. The enforcement scheme set up in the FMLA meets both these criteria.

The basic components of the FMLA's enforcement system are administrative investigation and hearings containing strict deadlines,** alternative judicial enforcement,** and

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2(a)(1)), which prohibits "discriminat[ion] with respect to [an employee's] compensation, terms, conditions, or privileges of employment." The Title VII standard has been interpreted very broadly, to cover not only such obvious terms or conditions as compensation and seniority, but also such intangibles as status, health and safety, work hours, shift assignments, overtime opportunities, availability of rest and lunch periods, substantive work responsibilities, level of supervision, working environment, promotion and transfer rights, performance and other standards, discipline, etc. Similarly, the FMLA's reference to "terms and conditions" must be broadly interpreted to achieve its purpose of job security for employees who take temporary medical or family leave.

** An individual who believes he or she has been denied any of the rights guaranteed by the FMLA (including but not limited to restoration to the same or an equivalent position following a temporary medical or family leave, termination of employment during such leave, or interruption of health insurance benefits), or who has reason to believe that he or she will be denied any such rights, files a charge with an office of the Department of Labor. Sec. 109(b). The charge must be filed within a year; third-party charge may also be filed on behalf of a person

authorization of significant penalties for noncompliance.[**]

The availability of an administrative scheme means that aggrieved employees will have easy access to an agency mandated to investigate and prosecute their claims. The Department of Labor has offices in many cities and a great deal of experience in the administrative enforcement of federal employment standards. At the same time, the imposition of strict time deadlines for action and the requirement of complaint issuance upon a preliminary finding of violation will avoid many of the problems of delay and inaction that often plague administrative enforcement. Similarly, the availability of alternative judicial enforcement permits an employee to choose to avoid the agency, or

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harmed. The Secretary of Labor must investigate the charge and make a determination within 60 days; if the determination is that there is a reasonable basis for the charge, the Secretary must issue and prosecute a complaint (Sec. 109(c) and (e)(1)). An on-the-record hearing before an administrative law judge ("ALJ") must begin within 60 days of the issuance of the complaint (Sec. 109(e)(2)). The ALJ's findings, conclusions, and order for relief must be issued within 60 days of the hearing's end (unless the ALJ provides a written reason for delay beyond 60 days) (Sec. 109(f)(2)). The ALJ's decision becomes the final agency decision unless appealed and modified by the Secretary; the final agency decision may be reviewed in a federal court of appeals.

[**] An individual may file an action to enforce the FMLA directly in federal or state court either as an alternative to administrative enforcement, or if the Secretary has dismissed or failed to take action upon his or her charge (Sec. 110).

[**] The relief specified in Sec. 112 of the bill is available in either administrative or judicial proceedings. It includes injunctive relief (including temporary restraining orders), back pay and other lost out-of-pocket compensation and expenses, an additional amount equal to either the lost compensation or consequential damages, whichever is greater, and attorneys' fees and costs. Awards of money damages are mandatory if a violation is found.

to abandon the agency procedure if it does not result in action quickly enough.

Just as important is the relief provided. The availability of attorneys' fees to prevailing parties will ensure both that attorneys will be willing to represent employees to assert their rights under the FMLA** and that employers will be deterred from violating the provisions of the law. Similarly, the provision of mandatory money damages serves the twin purposes of ensuring that employees will be recompensed for their actual costs and for the pain and suffering of being denied and subsequently having to assert their rights, and of adding to employers' incentives to comply.

Analysis of the FMLA's Consequences to Employers

From the standpoint of employers, enactment of the Family and Medical Leave Act will not be a substantial burden. A careful review of current employer practices casts doubt on many of the concerns about burden that some employers have expressed.

First, as already shown, many if not most employers already provide some form of leave akin to that which the legislation would mandate. Ninety-five percent of the companies surveyed by Catalyst grant short-term disability leave (38.9% fully paid, 57.3% partially paid, and 3.8% unpaid); 90.2% of them continue full benefits during the period; 80.6% of them guarantee the same

** Due to the high cost of legal services, many middle-class and even upper-middle class people find themselves unable to afford representation in employment-related disputes; this is *a fortiori* true for people in poverty, especially since federal funding for legal services programs has been reduced.

or a comparable job. For these companies, leave length appears to be tied to the employee's medical condition. Unpaid parental leave was provided by 51.8% of the companies, with 59 providing leave of three months or more.''

Similarly, most employers' health insurance policies also already continue health insurance coverage during employees' leaves. In fact, according to a comprehensive study published in 1984 by the Employee Benefit Research Institute, 98.6% of health insurance plan participants in establishments of 100 or more employees have coverage that continues for some period when they become disabled.'' A Columbia University study found that 55% of employers continue health insurance coverage during "maternity leave" (apparently referring to some combination of temporary medical and family leave).'' It thus appears that the majority of employers will not have to alter their health insurance

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'' Catalyst Report at 27-31.

'' Chollet, Employer-Provided Health Benefits: Coverage, Provisions and Policy Issues 56-57 (Employee Benefit Research Institute 1984). Indeed, continuation of health insurance benefits is frequently provided even for employees who retire: 67% of plan participants in establishments of 100 or more employees have health insurance continuation for some period (34.4% have continuation indefinitely) if they retire before age 65, and 59.6% have such continuation (57.3%) indefinitely) if they retire after age 65. Id. at 59.

'' Kamerman, Kahn and Kingston, Maternity Policies and Working Women 61 (1983). In addition, 44% of companies surveyed continued health insurance during "maternity leave" with an employee contribution. Only one per cent of companies providing health insurance to their employees did not in any way continue health insurance coverage for the employee during the employee's leave. Indeed, it was usual for the companies also to continue life insurance and pension benefits coverage during the period of leave as well. Ibid.

policies significantly, if at all, to come into compliance with the health insurance continuation requirement of the FMLA.

In addition, employers' fears that they will be constantly faced with employees taking temporary medical or family leave are groundless. In spite of the current widespread availability of such leave, employees do not take leave in excessive amounts. The 1980 National Health Survey found that employed persons between the ages of 17 and 64 experience an average of 5.0 days lost from work per person per year due to illness or injury.** Nor will the addition of leave for parenting or other family reasons significantly increase lost work days. Almost one-third of the companies included in the Columbia University study indicated that no employee had been on "maternity leave" that year; another third reported that no more than two employees had taken such leave that year.** In any event, and unfortunately, very few employees will be able to afford to take unpaid medical or family leave at all, or for as long as the full allotment permitted by the FMLA.

Another common argument against the legislation is its supposed burden on small employers. But the smallest of

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** Disability Days, supra, at 23, Table 3.

** Kamerman, et al., at 62. More than 75% of companies in the Catalyst survey reported that the combined medical and parental leaves related to maternity actually taken by women employees averaged less than three months. Catalyst Report at 32.

employers are already exempted by the legislation.[31] Indeed, this exemption already means that almost 5,250,000 employees will not have the protections afforded the rest of the workforce,[32] even though those employees are disproportionately women and minority men--often those segments of the employee population who most need the protections that the FMLA provides.[33]

Moreover, it has been our experience that small employers often do accommodate the family needs of their employees by granting them paid or unpaid leaves with job guarantees.[34] Even if job guarantees are not promised, many if not most small employers attempt to place employees who have been out of their jobs due to medical reasons or family needs either in their previous jobs or in very similar ones. In many instances, small employers may be more, rather than less, responsive to the health and family needs of their employees, because of the often-close relationships that develop between small business owners and their employees.[35]

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[31] H.R. 925 exempts private employers not in interstate commerce as well as employers in interstate commerce that have fewer than five employees. Sec. 101(4).

[32] U.S. Dept. of Commerce, Bureau of the Census, County Business Patterns 1983, United States Table 1B (1985).

[33] Kamerman, et al., at 49.

[34] Data on small business leave practices are not readily available due to the fact that small employers do not generally have written policies about employee absences and tend to make policy decisions on an ad hoc, case-by-case basis.

[35] Compare the results of a 1985 Working Mother Magazine survey of provision of leave for caring for sick children:

If small employers did not provide benefits to their employees comparable to those provided by larger companies, it could disserve their interests and exacerbate a problem that small employers already face. A major reason that many employees leave small businesses for larger ones is the disparity in benefits.** To attract and keep excellent employees, small businesses are going to have to provide at least the minimal leaves required by the FMLA in any event.

Nor does the FMLA necessarily entail out-of-pocket costs to employers, large or small.*' The legislation does not require employers to pay the salaries of their employees who take temporary medical or family leave. Instead, it merely requires that employees who take such leaves be reinstated into their positions at the expiration of the leaves.

The "cost," if any, to employers of this requirement is a management cost. Managers will, certainly, have to deal with the

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[T]he smaller the company, the more flexible and understanding the employer seems to be. This was surprising because big companies get a lot of credit and publicity for their supposedly more generous benefits. And while small companies might be expected to be run with a more personal touch, they still are more likely to have their business disrupted by the absence of an employee than a large company would be.

Clinton, "Guess Who Stays Home with a Sick Child?" Working Mother 56-57 (Oct. 1985).

** The State of Small Business: A Report of the President 249 (U.S. Government Printing Office 1985).

*' The one exception is the cost of continuing health insurance coverage for employees on leave; however, as shown above, as most health insurance policies already provide this feature, it involves little if any additional cost.

displacement resulting from the absences of employees out on leave. Yet managers already deal on a regular basis with employees' leaving their positions, temporarily or permanently. Replacements are found; job responsibilities are reorganized; work is rescheduled or redistributed; temporaries are hired. Indeed, well-run establishments, anticipating the inevitable employee absenteeism (whether due to sickness of a few days or longer-term leaves), plan their staffing and workload distribution with sufficient overlap to conduct their business adequately at all times. Furthermore, parental leave to care for newborns or newly-adopted children and many kinds of temporary medical leave have the advantage of advance notice, so that they can be planned for and coordinated within existing company needs. Catalyst confirms this reality: as one human resources executive who participated in recent Catalyst survey commented, "Coping during the disability of a coworker is always a burden, but it's less so with maternity because you can plan ahead."**

Finally, potentially enormous long-range costs to employers and to society at large will result from failure to provide job-guaranteed leaves for temporary medical conditions and for parenting and other family reasons. First is the emotional cost

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** Catalyst, The Corporate Guide to Parental Leaves 85 (1986). Catalyst reports on a range of means for handling the work of absent employees currently in use by companies, including hiring of outside temporary workers, rerouting of work to others in the department, temporary replacement from within the company, rerouting only of urgent work with the rest being held, work being sent home to the leave-taker, and filling of the leave-taker's position permanently and transferring her to another position upon her return. Id. at 85-104.

to children if parents are unable to take even the minimally necessary time to be with them at birth, adoption, or times of serious health-related experiences. Second and perhaps equally important is the cost to working people and their families of losing their jobs when they themselves are temporarily unable to work due to serious health conditions or to the serious health conditions of their children or parents. Both of these costs also have very real consequences for our welfare, unemployment insurance, and other public benefits systems, upon which employees forced out of their jobs must rely in order to survive. In addition, failure to provide adequate leave protection increases employee dissatisfaction and turnover, thus increasing direct costs to business.''

'' The cost of turnover for any position can reach 93% of the position's one-year salary. Catalyst, The Corporate Guide to Parental Leaves, supra, at 25.

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TESTIMONY OF ELEANOR HOLMES NORTON

In Support of the Family and Medical Leave Act
On Behalf of Women's and Civil Rights Groups and Unions

Before the Committee on Post Office and Civil Service
Subcommittees on Civil Service and
Compensation and Employee Benefits
U.S. House of Representatives
April 2, 1987

Amalgamated Clothing and Textile Workers
American Association of Retired Persons
American Association of University Women
American Civil Liberties Union
American Federation of Government Employees
American Federation of Teachers
American Nurses' Association
Association of Flight Attendants
Children's Defense Fund
Coal Employment Project
Coalition of Labor Union Women
Communications Workers of America
Disability Rights Education and Defense Fund
Epilepsy Foundation of America
International Ladies' Garment Workers' Union
Leadership Conference on Civil Rights
National Council of Jewish Women
National Education Association
The National Federation of Business and
Professional Women's Clubs, Inc. (BPW/USA)
National Federation of Federal Employees
National Organization for Women
National Women's Political Caucus
National Women's Law Center
NOW Legal Defense and Education Fund
Planned Parenthood Federation of America
Service Employees International Union
Union of American Hebrew Congregations
Washington Council of Lawyers
Women's Equity Action League
Women's Legal Defense Fund
Young Women's Christian Association of the USA,
National Board

Mrs. SCHROEDER. Thank you very much. I can't thank you enough for addressing the issues of discrimination, which we have heard so much about. We really appreciate your hitting those right on, and I want to thank all the groups who were smart enough to have you come represent them, as you do one heck of a job.

Congresswoman Morella.

Ms. MORELLA. Thank you. I am delighted to be able to hear at least the end of your testimony. I have heard you before. I have got great admiration for you. And I have your entire testimony here.

I wondered, in the course of all of the investigating that you have done, how do we rank, as a nation, in not offering the family and medical leave policies?

Ms. NORTON. Congresswoman Morella, it is hard to find a nation in our category—when I began to study this question, I was not surprised to find that all of our allies have more progressive policies and are moving toward more progressive policies still.

What did surprise me was the large number of Third World countries, countries who are arguably less advanced industrially and technologically than we are, who have understood that you simply cannot keep families together unless you make some substitutions for women as they go to work.

But we are in the very bottom range, with countries most of whom are very underdeveloped, who have not yet developed family leave policies.

Ms. MORELLA. It is rather ironic, isn't it, that what we consider the greatest nation in the world is lagging behind other countries, including, as you mentioned, Third World countries, in having a uniform leave? Do you think one of the concerns is that people will abuse it? And what are your findings demonstrating?

Ms. NORTON. I think employers may well have that concern. But the experience of employers themselves, it seems to me, is the chief argument against that concern.

I was also surprised that it is hard to find a large company, a company of any size, that does not in fact give paid leave for many of these purposes, certainly disability leave. And one has to ask oneself, why do they do that, especially since that means that they are doing it for very large numbers of people. Disability leave means you are doing it for your entire work force. And yet no employer of any size today would think of not having disability leave.

This accounts not only for unionized companies, I hasten to add, but for non-union companies as well.

It is clear that what companies have done is to sit down, as they must, and figure out what they get for a specific benefit. One of the things that they figure foremost is the investment they put in training workers and in having experienced workers.

And when you have a worker for as little as two or three years, but certainly for five or ten or 15 years, that worker not only has built up her own benefits, you have in fact a great stake in that worker because of what it has taken to train and retain that worker.

And employers, large employers have long ago figured out that this is the kind of benefit that ought to be considered minimal, not only because of what it means to their employees but because of what it means to their own bottom line.

Medium size and smaller companies, I am afraid, Conqresswoman Morella, have a kind of reflex reation to new legislation of this kind, even when it does not mandate that they expend costs, as is the case with disability leave. They don't want to be regulated in any way. They don't stop to figure out—often they do not have the sophisticated means to figure out what you save in giving such leaves. And so, their reflexive opposition comes to play.

When that happens, it seems to me the government ought to step in and use the experience of larger companies in order to make a level playing field, so that a person is not allowed a benefit of this fundamental nature, according to the luck of where he or she happens to work.

Ms. MORELLA. It also seems to me that this is the kind of legislation and policy that would enhance productivity by removing the trauma that many people face with regard to what if, and what do I do if the child is sick, or whatever.

Do you agree with that? Do you believe that it is a real bonus, in a way, in terms of an advantage that we don't often look at in terms of peace of mind?

Ms. NORTON. I agree and think this is one of the costs that particularly smaller employers have not been able to quantify, and therefore they don't believe it exists.

Particularly when a family member is seriously ill, and that can be an elderly parent who has to go to the hospital, the notion that somebody is going to sit there and do their work the way they were doing it last month when nobody is in the hospital is folly. That is just not the way human beings are and how they work.

Moreover, most people don't want to take more time off from work than they need to. And when legislation of this kind is tried out, particularly in an economy in which people compete for other people's jobs, employers find out, I think, that the benefit, particularly in productivity—and too bad it is not more measurabie for the smaller among them—is there.

What I would ask small employers to do is to take the experience, which has often been quantified, of larger employers, who know that the payoff in productivity and morale is worth it.

Ms. MORELLA. I just think this is something we should project even more than we probably have. Thank you very much.

Thank you, Madam Chairwoman.

Mrs. SCHROEDER. Well, I, too, want to thank you, and I thought your testimony about other countries was remarkable. I know I constantly get legislators from other parliaments showing up saying, we want to see your bill, and then they look at it and they say, my word, this is all it does, we did this in the 30's or 40's. And then we have people in the United States who come look at it and say, this is socialism. It really is amazing.

But I think part of the reason is we keep focusing it as women's legislation and it truly is family legislation. Other countries have categorized it as family legislation. The ones who really need to be heard aren't here, the babies, the elderly parents—they are the ones who this really benefits the most. That is the great tragedy.

Ms. NORTON. Congresswoman Schroeder, I have not only had the experience as a lawyer and as a civil rights activist, I had the experience of running a large, troubled company called Equal Employ-

ment Opportunity Commission. And in doing so, I got a reputation for being no patsy when it came to employees and the need at that time to make that agency more responsive to the public and get rid of its backlog.

But I must tell you that my own experience in running an agency, which had 3,500 employees, tells me that this bill is important for the employer.

When I think of what would have happened if the employees who simply worked around me, people on whom I depended, had the anxiety that attends not knowing whether the government would allow them family leave, when I consider what would happen if a person had to take time off and I had to consider how much time off I should allow in order to make sure that I wasn't discriminating against somebody else—and at EEOC, because people knew their rights, they would have been inclined to file against the agency in a second if general counsel's office had allowed leave for one period of time, several weeks, whereas somebody in another office had a habit of allowing it only for a shorter period of time.

I didn't need headaches like that at EEOC. When I came to the agency, there were headaches enough.

I think we do, particularly the federal government, a favor if OPM isssues regulations that set minimum guidance, through regulation, so that in fact the supervisors can be protected against their own judgment, against differences in treatment from one category of employee to another, which they may be unaware of or not fully understand because they have not gotten the guidance through regulation from the OPM.

So, I was very glad to hear the conversation you had with OPM that preceded me and hope that their guidance becomes much more specific than it now is.

Mrs. SCHROEDER. Well, that is wonderful. Your intuition read my next question and you answered it before I got to ask it. And that was, you heard OPM and how they were doing you such a favor as a supervisor by allowing total discretion. I never quite understood the speed limit analogy, but the total discretion to pick whatever speed you wanted. And I must say, I was a little surprised by that, too. So, I appreciate hearing about your experience running one of these federal agencies that they thought they were doing such a favor by not giving any guidelines.

Ms. NORTON. Yes. His notion that on some roads you want to travel not as fast doesn't work under Title VII. If somebody, in fact, in one department tends to give leaves that are significantly less for the same kinds of disabilities than in another department, that speed limit will probably get you sued under Title VII.

Mrs. SCHROEDER. I think so. It wa a unique legal principle that I had not heard yet. So, I am delighted to hear that you haven't heard of it either.

Thank you very much for your testimony this morning. We really are honored by your appearance and presentation. Thank you.

Ms. NORTON. My great pleasure.

Mrs. SCHROEDER. The next group is a panel. We have Marilyn Young, who is from the Social Security Administration but speak-

ing for herself; we have David Spiegel, who is from the Federal Trade Commission but also speaking for himself; we have David Blankenhorn, who is the Executive Director for the Institute of American Values, who will be accompanied by Judy Farrell, who is the Project Coordinator of the Economic Policy Council of the United Nations Association.

I want to welcome all of you and tell you we are delighted to have you here this morning.

We will put all of your written statements in the record. We are running a little short on time and we have got another panel coming. If there is any way you can consolidate or summarize, we would be very appreciative. We would then have more time for questioning.

So, Marilyn, why don't we start with you.

STATEMENTS OF MARILYN YOUNG, SOCIAL SECURITY ADMINISTRATION, SPEAKING FOR HERSELF; DAVID SPIEGEL, FEDERAL TRADE COMMISSION, SPEAKING FOR HIMSELF; DAVID G. BLANKENHORN, EXECUTIVE DIRECTOR, INSTITUTE FOR AMERICAN VALUES, ACCOMPANIED BY JUDY FARRELL, PROJECT COORDINATOR, ECONOMIC POLICY COUNCIL, UNITED NATIONS ASSOCIATION

Ms. YOUNG. I am Marilyn Young, and I am pleased to appear here today, and I want to thank you for holding these hearings in support of H.R. 925.

I work for the Social Security Administration in the Office of Disability Operations, Baltimore, Maryland. I am a grade 8 benefit authorizer and have been employed with the Social Security Administration for ten and a half years.

I believe the legislation which provides for family and medical leave is long overdue in our nation. Although an employee accrues annual leave, sick leave and may request leave without pay, workers still face extreme difficulty in securing the necessary leave to care for their children or family members who are ill.

In 1984, I was pregnant and my baby arrived three months premature. I delivered my child in August, 1984. When I was released from the hospital, my baby remained hospitalized and was on a heart monitor and oxygen due to a chronic lung and respiratory condition.

I remained off work until September, 1984, and returned to work. My baby was still hospitalized at that time.

I was informed by my doctor at the end of September, 1984 that my baby would be released from the hospital October 4, 1984, and that the child would need constant care as it would still be on the heart monitor and oxygen.

My doctor gave me a statement concerning my child's physical problems and recommended that I remain off work for three months. Prior to bringing in my leave request with the doctor's statement, I had talked with my supervisor and informed them about my child's problems and condition.

When I submitted my leave request, I was denied the three months leave and told I could only have six weeks.

At no time did anyone state that my child's condition was not sufficient to warrant the grant of the three months requested.

I then went to my union, AFGE Local 1923, and they, subsequent to October 4, 1984, were able to get my leave extended.

I feel that if the Family and Medical Leave Act were passed, I would not have had this happen to me.

Even though the agency regulations say that a person may be granted leave for up to a year's time and my union contract states that I may be granted up to six months of leave if I submit proper documentation, I was unable to get the leave I needed to care for my child.

I don't know if you can fully understand the stress which is created when you have a family member who needs your care and your employer tells you no. My child was only two months old, on a heart monitor and oxygen, and had to have constant care.

To have my leave request denied, when I had kept my employer constantly informed on my situation, was a serious blow to me.

I am glad I did have someone to pursue the issue for me, because at the time this occurred I did have to focus my attention on the care of my child.

I firmly believe that this legislation will provide the support that employees need to care for their families and will eliminate the arbitrary denial of a legitimate leave request, such as was made by me.

I hope that Congress will favorably consider the provision of this bill which concerns paid leave. My personal experience, I feel, highlights the needs in this area.

My child's medical condition was unexpected and required us, as a family, to sustain extra expenses. We clearly were concerned for our child first. If I had not had a union to speak for me, I could possibly have lost my job if I had not returned to work at the end of the six weeks leave granted by my employer.

Aqain, this is a frightening situation to consider. I can only say that I was fortunate.

I hope that you pass the legislation so that employees will no longer be faced with a choice between their family and their job. I feel that such a choice should not occur in America today.

Mrs. SCHROEDER. Thank you very much for your testimony, Ms. Young.

I think we will move on, then, to David Spiegel. Again, we will put your testimony in the record, if you care to summarize. We welcome you.

STATEMENT OF DAVID SPIEGEL

Mr. SPIEGEL. I am David Spiegel. I am a senior level GS-15 attorney with the Federal Trade Commission. I have also published a number of articles on parenting and childcare, as well as on various legal subjects.

Last, but certainly not least, I am the father of three very active, thriving boys.

My testimony today reflects my personal opinions only. It does not involve the official views of the Federal Trade Commission.

In my testimony today I am going to describe a leave arrangement I worked out with the FTC shortly after my third child, Jesse, was born.

The arrangement permitted me to work a four day week. It continued for a year.

This is not a horror story. It is not, for instance, about the loss of a job, or a demotion. Indeed, I am confident that my agency's policies regarding parental leave would be viewed as enlightened.

All the same, speaking again for myself, my own experience involved an unnecessary amount of insecurity and tension.

Like me, my wife is a professional and has demanding work commitments. In the current jargon, we are a dual career family.

What that means in practical terms is that any time there is a snow day in the schools or any unexpected contingency, we run a kind of high wire act, balancing work and parenting.

When my wife became pregnant with Jesse, our third child, I did a lot of thinking about the impact that this would have on our high wire act. I tried to extract some learning from the first two times around with our two older boys.

After each was born, I had taken two weeks of leave time, and then I went back to work full time. Undoubtedly, this is much better than taking no leave time at all, but it is not much better.

From a parenting perspective, for the first year or so of my children's lives, I felt much more like a fireman than a father. No matter how many baby related tasks I performed, I had absolutely no sense of bonding. I was simply too harassed.

Forget the stories about quality time. You can't get a baby to cuddle or coo around a 9:00 to 5:00 schedule, when you get home tired from work.

Apart from my parenting needs, there was a problem of overall family stress when the baby was born.

All of us, my wife and I included, wanted a certain amount of reassurance and stroking. But there simply wasn't enough time for that. In addition, there were practical problems related to child care.

So, this time around I decided to try something new. I wanted to try to work out a part time leave arrangement.

The optimal leave arrangement would have been a three day work week. I decided this was too risky. A three day work week would have required me to make a request for leave without pay.

Although official FTC policy regarding such requests is a liberal one, the question of whether or not the request is granted is a matter left largely to the discretion of individual supervisors. It depends on the impact that the leave would have on office performance.

Within my own section, I would be in the uncomfortable position of being the first employee, male or female, to make such a leave request. From my supervisor's work hours and his offhand comments, I had a very strong sense he had a traditional notion of a man's role. I was by no means certain he would grant my request. And, even if he did grant my request, I was concerned about the impact on my position.

In the end, I opted for a compromise. I asked for one day off a week, instead of two.

This enabled me to bypass the leave without pay problem. Instead, I used my annual leave, which I had accumulated during two previous vacationless years, when I had had work demands and had taken no vacation.

The advantage to this, as I saw it, was that I would avoid making myself a special case.

Unfortunately, as things turned out, I was wrong. My supervisor granted my request, but there was a catch. He immediately told me he was concerned about my ability to keep up with my work assignments. Therefore, he was unwilling to give me his unqualified approval.

Instead, he wanted me to give him a leave slip each week. This would give him a chance to evaluate how the whole arrangement was working.

This was not the kind of blessing I had hoped for. I am sure, at this point, if I had asked my boss for eight weeks off or ten weeks off to take a trip around the world, he wouldn't have thought twice about setting conditions for the leave. He would have thought about the two years of work I had put in and he would have seen the leave as a reward.

But this request that I was making, to use my annual leave for parenting time, was another matter entirely.

As it turned out, this was the last time we discussed the subject. But the year itself was by no means uneventful. It offered some very eye-opening contrasts.

On the home front, as a parent and homemaker, I was flourishing. My relationships with my wife and my children, with the infant and with my two older boys, were better than they had ever been before, and this was largely because I had more time.

As the year progressed, I became aware of new rhythms and new patterns in my baby that I simply had not had time to see with my two older children.

The last week of the leave arrangement, I took the three boys to Great Falls Park in Virginia. We were walking and talking. My oldest son asked me "Why can't you keep doing this?" It was a very good question—one I thought about a number of times. I thought about extending the leave arrangement for another four or five months. But there were good reasons not to, and it had to do with the office front.

All of a sudden, my dedication seemed to be in question. My decisions, routine decisions, memos, day-to-day things, were being scrutinized much more closely. To keep even, I felt that I had to work harder than I ever did before. In effect, I had to generate more than five days of work productivity in four days.

Even so, there were a number of subtle intimations that what I was doing was disrupting office routines.

For instance, on the business day before my day off, my boss or his deputy would come in and they would say there was some problem that was coming up the next day, a meeting, a witness interview, a memorandum that needed changes. I would explain that I had taken care of the problem, and then my boss would say, "oh, I forgot, the next day you have off."

Then the next week the same thing would happen all over again.

I don't know my boss' intentions in this or in other similar episodes, but the effect was to make me extremely tense throughout the whole year. I felt as if my leave was a special favor which could be revoked at any moment.

By the time I returned to work full time, it seemed to me my standing in the office had declined. The assignments that I was receiving were not at the same level as they had once been.

Several months later I transferred to another division of the Commission, and now my career is back on track.

However, my son's question still comes to mind—this is three years or four years later—why can't you keep doing this? At the very least, why can't you keep doing this four or five months longer?

My experience has convinced me that parental leave, whether by fathers or mothers, should not be viewed as a special request, a matter that can be left to the dictates of office efficiency or to the discretion of individual supervisors.

Instead, such leave should be affirmatively encouraged as a matter of national policy. It should be seen as an act which strengthens family bonds and unity.

And for these reasons, the legislation proposed by the subcommittee is a very important step.

I want to thank the committee for the invitation to testify today.

Mrs. SCHROEDER. We want to thank you. And Congresswoman Morella and I were thinking about giving you a standing ovation.

Mr. SPIEGEL. Give a standing ovation to my wife, too.

Mrs. SCHROEDER. Well, it is a very refreshing testimony, believe me.

[The full statement of Mr. Spiegel follows:]

TESTIMONY OF DAVID ROBERT SPIEGEL, ATTORNEY, FEDERAL TRADE COMMISSION, ON THE PARENTAL LEAVE AND DISABILITY ACT, H.R. 925

I want to thank the subcommittee for the opportunity to testify on the Parental Leave and Disability Act.

I am a senior level (GS-15) attorney with the Federal Trade Commission and am currently managing certain projects in the Commission's Bureau of Consumer Protection. I have also published a number of articles on parenting and child care, as well as on various legal subjects.

My testimony reflects my personal opinions only. It does not involve the official views of the Federal Trade Commission.

In my testimony today I want to add my voice to those of other witnesses who are supporting this subcommittee's legislation on parental leave.

"Men are learning that work, productivity...may be very important parts of life, but they are not its whole cloth," writes Kyle Pruett, a professor of clinical psychiatry at Yale University, in his recently published book, The Nurturing Father. "The rest of the fabric," continues Dr. Pruett, "is made of nurturing relationships, especially those with children--relationships which are intimate, trusting, humane, complex, and full of care."

My personal experience with a non-traditional parental leave arrangement illustrates the validity of this statement. Equally importantly, it also underlines the need for a uniform, national policy on parental leave.

Spiegel Testimony--2

This is not a "horror" story. It is not, for instance, about the loss of a job, or a demotion. Indeed, I am confident that my agency's policies regarding parental leave would be viewed as enlightened. All the same, my own experience involved an unnecessary amount of insecurity and tension. I am convinced that this might have been alleviated dramatically if the guidelines of H.R. 925 were national policy.

My wife is a psychologist. We have three children. In the current jargon, we are a "dual career family." What that means in practical terms is that our day-to-day life is a kind of high wire act. The balance between our parenting roles and our work responsibilities is at best a shaky one. The slightest thing--a sick child, a snow day for schools, a sick baby sitter, can throw everything off. Even under the best of circumstances, there is always a sense that something is about to go wrong.

When my wife became pregnant with Jesse, our third child, I did a lot of thinking about this high wire act. I tried to extract some "learning" from my--our--early parenting experience with our two older boys.

After each was born, I had taken two weeks of leave time. Then, convincing myself that I had somehow passed a litmus test for fathers and that there was nothing more I could do, I went back to work full time.

Undoubtedly, this is better than taking no leave time at all. But it is not much better.

From a parenting perspective, for the first year or so of my

children's lives, I had felt more like a fireman than a father. No matter how many bottles I fed the baby, no matter how many diapers I changed, no matter how many baths I gave him, something crucial was missing-- a sense of mastery of the daily routines, a feeling of bonding.

Forget the stories about "quality time." You cannot get a baby to cuddle or coo around a 9-5 work schedule. Nor do you feel much of a nurturing impulse when you're exhausted from working all day.

Apart from my own parenting needs, there was the problem of overall family stress.

Based on past experience, I knew that the period after the baby came home would be a difficult one. All of us (my wife and I included) would want reassurance and stroking. If the past was any sort of guide, it was a time to slow down rather than attempting to resume business as usual two weeks after the baby was born.

In order to have adequate time with our children my wife had structured for herself a three day work week. This seemed like a very sensible, practical decision. Although her work arrangements were more flexible than mine, I wondered if it wouldn't be possible for me to try the same thing. If we could find the right "fit" between our schedules, this would give our family more "together time" to work out our tensions. Furthermore--and this was by no means a small consideration--we could avoid the stress of trying to work out a new child care

arrangement for the baby. Instead, we could keep the child care arrangement we were currently using and were comfortable with.

What made the most sense was for me to seek permission to work a three day work week. However, I decided this was too risky.

A three day week would have required me to make a request for leave without pay status (LWOP). Unfortunately, this was an unclear area.

The FTC, following standards laid down by the Office of Personnel Management, cited "maternity/paternity reasons" as a basis for granting LWOP. The relevant policy guidelines then went on to note that "managers must...consider the impact of the [worker's] absence on the ability of the office to perform its work when deciding whether to approve these requests."

In practice, I knew that the FTC was interpreting these guidelines in a liberal fashion. I had spoken with several women in other divisions of the FTC who had experienced no problems working out extended maternity leaves following the birth of their babies.

On the other hand, I knew that each request was handled on an ad hoc basis, subject to a supervisor's own notions of the importance of maternity/paternity leave and the effects this would have on his/her section's overall performance.

As a practical matter, I was in the uncomfortable position of being the first employee in my section to make such a leave request of my supervisor. From his own work hours and off hand

comments, I had a strong sense that he had a traditional notion of a man's role. I was by no means certain that he would grant my request. And, even if he did, I was concerned about the future impact on my position.

The FTC, like many government agencies, had been cutting costs to accommodate a shrinking federal budget. There was talk of RIF's. Would a request for two days per week LWOP make me more dispensable? Could I really be sure my job would be around when I wanted to return to work full time?

In the end, I opted for a compromise.

I decided to ask for one day off a week instead of two. This would enable me to avoid making a request for LWOP. Instead, I would pay for my leave arrangement out of annual leave that I had accumulated during the past two years. During this period, because of work demands, I had taken no vacation.

There were, of course, obvious financial advantages to this arrangement. But the main consideration, as I saw it, was that it would avoid making me into a "special case." I would simply be taking what was already coming to me.

Unfortunately, my reasoning was flawed.

Although my supervisor granted my request, there was a small catch.

He was concerned about my ability to keep up with my work assignments. Therefore he was unwilling to give me his unqualified approval. Instead, he wanted me to give him a leave slip each week. This would give him a chance to evaluate how the

arrangement was working.

As you might expect, this was not the kind of "blessing" I had hoped for. Had I asked my boss for ten weeks off to take a trip around the world, I'm sure he wouldn't have thought twice about setting conditions for the leave. He would have seen the leave as a reward for my hard work. However, the use of vacation time for parenting purposes was another matter-- something that had to be doled out on a week to week basis.

As it turned out, this was the last time we discussed the subject. But the year was by no means uneventful. In fact, it offered some eye opening contrasts.

In my expanded role as a parent and home maker I was flourishing.

True, I was off just one day. But it was a day when everyone (my wife included) was at work. I was in charge all day. And unlike other weekdays, I did not have to squeeze my parenting role into the early morning, or into the evening hours, after I returned home from work.

What a difference that made! As the year progressed, I became aware of new rhythms and patterns in my family that I had never had the time to see before.

My infant son Jesse, for instance.

I had time to watch him grow and develop, to interact with him in a hundred new ways.

I watched him rise from his naps, roll over on his back, look around, cluck in delight at his surroundings, each time

finding something new to explore. Several months later I watched him rise to his knees, push forward, roll over, then start all over again. And, finally, in the weeks before I returned to work, there he was at the coffee table, slapping it, catching my eye, laughing uproariously, falling down, then repeating the cycle once more.

And then there were my two older boys.

Now I was the one who heard their complaints, opinions, observations when they returned from school. I fed them snacks, arranged to have their friends over, took them to the park, played games with them. Before my wife came home, I organized them to help me prepare dinner.

To be sure, our family was not without tensions. The boys tangled with each other as much as ever. Jesse had his cranky periods. I lost my temper. There were tedious moments as well as interesting ones.

But all in all, everything was running more harmoniously. There was less of a helter-skelter quality to our life.

The last week of the leave arrangement was a no-school day. I took my three sons to Great Falls Park. We had a marvelous time walking, hiking and wandering.

"Why can't you keep doing this?" my oldest son asked.

I explained to him that I had other responsibilities at work. That I needed to make a living.

He was unimpressed. "I like having you around," he said.

In fact, I had thought many times about attempting to extend

my leave arrangement for another four or five months. This would have been quite beneficial to my family, even though it would have involved taking leave without pay. But there were compelling reasons not to do so.

I may have been a hero at home. But at the office it was a different story.

All of a sudden, my "dedication" seemed to be in question. My decisions were being scrutinized more closely. To keep even, I felt that I had to work harder than I did before-- in effect, generate five days of work productivity in four days.

Even so, there were a number of intimations that my arrangement was disrupting office routines, that I needed to tread warily.

For instance, on the business day before my day off, my boss or his deputy would question me about some "problem" that was coming up while I would be at home--a meeting; a witness interview; a memorandum that needed changes. Usually, I had already taken care of the problem. When I explained this, my boss would apologize. He had "forgotten" I was off the next day. But the next week the same thing would happen all over again.

By the time I returned to work full time, it seemed to me my standing in the office had declined. The assignments I was receiving were not at the same level they had once been.

Several months later I transferred to another division of the Commission. Now, my career is back on track. However, my son's question still reverberates-- "Why can't you keep doing

this?"

Joseph Pleck, a clinical psychologist who has written extensively on dual career family issues, states that

> "One reason more fathers use short term leaves [for parenting] is that these are less disruptive than a long-term leave to the father's job prospects or career track, a disincentive to taking a leave even when loss of income is not an issue."

Based on my own experience, I feel there is a lot of truth to this.

This is unfortunate. Parental leave--whether by fathers or mothers--should not be viewed as a "special request"--a matter that can be left to the dictates of office efficiency and the discretion of individual supervisors. Instead, such leave should be affirmatively encouraged as a matter of national policy. It should be seen as an act which strengthens family bonds and unity. The legislation proposed by this subcommittee is an important step in this direction.

Mrs. SCHROEDER. David Blankenhorn, again we welcome you.

STATEMENT OF DAVID BLANKENHORN

Mr. BLANKENHORN. Thank you very much.

I direct the Institute for American Values, a policy organization concerned with issues affecting the American family.

We support the Family and Medical Leave Act, not only because it would help families, but also because it would foster a more productive work force, in the public as well as the private sector.

Now, the U.S. Chamber of Commerce has recently publicized some very scary numbers on how much this bill could cost the American economy. And I would like to summarize for you briefly why I believe those numbers to be fundamentally wrong.

The Chamber of Commerce study says that, well, parental leave might be a fine idea, but the parental leave provision of this bill would cost too much money, $16.2 billion per year to be exact, in lost productivity, the expense of hiring temporary replacements, and the cost of maintaining health insurance for those on leave.

Moreover, the chamber says many people directly or indirectly paying these costs, childless workers—parents not in the labor force, those unable to afford an unpaid leave—would receive no benefits. And they ask, why should all of us spend money to provide leaves for some of us?

Well, the first point, obviously, is that most of the costs are borne by the parents themselves, as we have just heard. After all, they lose weeks or months of salary, just when newborn or sick children are boosting family expenses.

Parental leave extends job security—specified rights to time off without being fired or demoted—but it does not provide something for nothing.

Calling parental leave a "mandated benefit" as the chamber study insists on doing confuses the issue twice in two words.

For employees, nothing is mandated. Parental leave is an option for those who choose it and accept its costs. Neither is it a benefit so much as a minimum labor standard that reflects the reality of today's two gender work force.

Like minimum wage standards in an earlier time, parental leave establishes a floor, not a ceiling—a minimum protection for parents who seek and will pay for new ways to balance family and work.

Setting such basic standards is a fitting and proper role for government.

But what about the $16.2 billion? Here I believe the chamber study indulges in a vice best described by Mark Twain. They use a statistic like a drunk uses a lamp post, more for support than illumination.

Nearly 60 percent of that $16.2 billion comes from the chamber's calculation of increased payroll costs. The chamber study says that all companies affected by parental leave will turn to employment agencies, whose hefty fees make temporary workers more costly than permanent ones.

In the real world, the opposite usually happens. Many firms now hire temporaries directly, avoiding employment agency fees.

According to the Bureau of National Affairs, most companies find temporaries less expensive than permanent employees.

More important, most companies hire few temporaries, or none at all. They simply reroute work assignments whenever an employee is on leave. In such instances, parental leave, far from boosting payroll costs, could actually reduce them.

Now, nearly all the rest of the chamber's parental leave price tag, about $5.5 billion, is based on an estimation of lost economic productivity due to parental leave.

The chamber study assumes that current practice—that is, no minimum standard—promotes full productivity. They then assume that every new father and mother in America, given the opportunity, would take an 18 week leave.

These assumptions can most charitably be described as not based in reality. Existing programs prove that not everyone will choose parental leave. Fathers, for example, are ten times less likely to use it than mothers. Nor would everyone take the full 18 weeks.

The more important fact, though, is this: Under current practice, most new parents, as we have heard, report higher stress, more absenteeism and lower productivity following childbirth.

More important, many new parents quit their jobs, rather than resume work immediately. Most eventually return but at a new job with a different employer.

This type of turnover, ignored by the chamber study, is costly for everyone. Hiring and training a new permanent employee can cost nearly the equivalent of one year's salary, according to a recent analysis in Training Magazine.

Parental leave, by allowing employees to return to their previous jobs, would both reduce turnover and improve morale, thus increasing productivity rather than reducing it.

Oddly enough, a recent study by the chamber itself confirms this view that parental leave can make workplaces more productive. A survey of firms currently offering parental leave found that over 60 percent of those firms cited "recruitment and retention" of good employees as the main reason for the program.

As demographers predict tighter labor markets, and even labor shortages for the 1990's, many employers already recognize parental leave as a valuable policy, not despite the bottom line, but because of it.

This logic applies to the federal work force just as surely as it does to the private sector.

Conceptually, then, we believe the chamber study is half blind. It searches out costs, but ignores benefits that reduce or reverse those costs. It looks at the American work force through a rear view mirror, misjudging its new realities. The chamber can question the price of doing something, but fails always to evaluate the price of doing nothing.

And finally, after the workplace bottom line, is the larger question of the family's bottom line.

A grim litany of statistics, from divorce to child poverty, to teen suicide, tells us that American families are in trouble, in part due to policies that make it harder, rather than easier, for today's parents to both earn a living and do right by their children.

And here I would suggest that the bottom line is very simple. Working parents are more than some special interest pleading for privileges in a zero sum game. Stronger families benefit the entire society.

Raising our children is not merely a series of private concerns, but also a social imperative that must be supported by policies such as parental leave. That is why a chamber lobbyist recently complained that "our usual allies think this is a family issue."

It is, and that is why it should become law.

Thank you very much.

Mrs. SCHROEDER. I thank you. There is another standing ovation. This is a dynamite panel, from Marilyn Young right on through.

[The full statement of Mr. Blankenhorn follows:]

Statement of

David Blankenhorn, Executive Director

Institute for American Values

On: H.R. 925, "Family and Medical Leave Act of 1987"

To: Subcommittee on Civil Service, and
Subcommittee on Compensation and Employee Benefits,
U.S. House of Representatives

Date: April 2, 1987

My name is David Blankenhorn. I direct the Institute for American Values, a policy organization concerned with issues affecting the American family.

We support the Family and Medical Act -- not only because it would help families, but also because it would foster a more productive workforce, in the public as well as the private sector. The U.S. Chamber of Commerce has recently publicized some very scary numbers on how much this bill could cost the American economy. I would like to tell you now why I believe those numbers are fundamentally wrong.

There are four questions we should ask, in a rigorous and disciplined manner, of any proposed workplace policy:

1. Is it a good idea?
2. What the proper role of government?
3. What is the cost?
4. Who will pay for it?

As to the first question, I know of no one -- including the opponents of this bill -- who think that parental leave is a bad idea. Everyone agrees that it's a good idea. With most mothers now in labor force, including over half of all new mothers, parental leave offers many parents a new opportunity to reach an old-fashioned goal: time at home with young children.

The disagreements arise over the remaining questions -- particularly over the cost and over who will bear the cost. The Chamber of Commerce argues that this good idea would cost too much -- $16.2 billion per year, to be exact, in lost productivity, the exense of hiring temporary replacements, and the cost of maintaining health insurance for those on leave. Moreover, they insist, many people directly or indirectly paying these costs -- childless workers, parents not in the labor force, those unable to afford an unpaid leave -- would receive no benefits. Why should all of us spend billions to provide leaves for some of us?

Proponents of the bill must confront this argument squarely and factually.

One obvious point, ignored by the Chamber, is that most of the costs are borne by the parents themselves. After all, they lose weeks or months of salary, just when newborn or sick children are boosting family expenses. Parental leave extends job security -- specified rights to time off without being fired or demoted -- but it does not provide something for nothing.

Calling parental leave a "mandated benefit," as the Chamber insists on doing, confuses the issue twice in two words. For employees, nothing is "mandated"; parental leave is an option for those who choose it and accept its costs. Neither is it a

"benefit" so much as a minimum labor standard that reflects the reality of today's two-gender workforce. Like minimum wage standards in an earlier generation, parental leave establishes a floor, not a ceiling -- a minimum protection for parents who seek, and will pay for, new ways to balance family and work. Setting such basic standards is a fitting and proper role for government.

But what about the alleged $16.2 billion in costs to the American economy? Here the Chamber indulges in a vice best described by Mark Twain. They use a statistic like a drunk uses a lamp post: more for support than illumination.

Nearly 60 per cent of that $16.2 billion comes from the Chamber's calculation of increased payroll costs. The Chamber says that all companies affected by parental leave will turn to employment agencies, whose hefty fees make temporary workers more costly than permanent ones.

But in the real world, the opposite happens. Many firms now hire temporaries directly, avoiding employment agency fees. According to the Bureau of National Affairs, most companies find temporaries less expensive than regular employees. More important, most companies hire few temporaries, or none at all; they simply re-route work assignments whenever an employee is on leave. In such instances, parental leave, far from boosting payroll costs, actually reduces them.

Nearly all the rest of the Chamber's parental leave price -- over $5.5 billion -- is based on an estimation of lost economic productivity due to parental leave. The Chamber assumes that

current practice -- that is, no minimum standard -- promotes full productity. They then assume that every new father and mother in America, given the opportunity, would take an eighteen week leave.

These assumptions can most charitably be described as not based in reality. Existing programs prove that not everyone will choose parental leave: fathers, for example, are ten times less likely to use it than mothers. Nor would everyone take the full eighteen weeks.

Under current practice, moreover, most new parents report higher stress, more absenteeism and lower productivity following childbirth. More important, many new parents, especially mothers, quit their jobs rather than resume work immediately. Most eventually return, but at a new job with a different employer. This type of turnover, ignored by the Chamber, is costly for everyone -- hiring and training a new permanent employee can cost nearly the equivalent of one year's salary, according to a recent analysis in Training magazine. Parental leave, by allowing employees to return to their previous jobs, would both reduce turnover and improve morale, thus increasing productivity rather than reducing it.

Oddly enough, a recent study by the Chamber itself confirms the view that parental leave can make workplaces more productive. A survey of firms currently offering parental leave found that over 60% cited "recruitment and retention" of good employees as the main reason for the program. As demographers predict tighter labor markets, and even labor shortages, for the 1990's, many employers already recognize parental leave as a valuable policy -- not despite the bottom line, but because of it.

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This logic applies to the federal workforce just as surely as it does to the private sector.

Conceptually, then, the Chamber is half blind. It searches out costs, but ignores benefits that reduce or reverse those costs. It looks at the American workforce through a rear-view mirror, misjudging its new realities. Thus the Chamber questions the price of doing something, but fails to evaluate the price of doing nothing.

Finally, after the workplace bottom line, is the larger question of the family's bottom line. A grim litany of statistics, from divorce to child poverty to teen suicide, tells us that American families are in trouble -- in part due to policies that make it harder, rather than easier, for today's parents to both earn a living and do right by their children.

Here the bottom line is simple. Working parents are more than some special interest, pleading for privileges in a zero-sum game. Stronger families benefit the entire society. Raising children is not merely a series of private concerns, but also a a social imperative that should be supported by policies such as parental leave. That's why a Chamber lobbyist recently complained that "our usual allies think it's a family issue." It is.

Thank you very much.

Mrs. SCHROEDER. Ms. Farrell, we will put your statement in the record, too, and the floor is yours.

STATEMENT OF JUDY FARRELL

Ms. FARRELL. Thank you, Chairwoman Schroeder and members of the subcommittee.

I am project coordinator for the Economic Policy Council or the United Nations Association.

The council's Family Policy Panel, a group of U.S. business, labor and academic leaders, released a report last year on Work and Family in the United States: A Policy Initiative, which concluded that a national family policy would strengthen the foundation of the family, contribute to worker productivity, and enhance our economic competitiveness.

Among the panel's first recommendations was a call for a six month unpaid, job protected parental leave and also job protected leaves for all temporarily disabled employees.

There is one point I would just like to touch upon briefly that hasn't been mentioned today, and that is other job protected leaves that are provided for employees and which are guided by federal policy.

We already know that managers deal on a regular basis with employees leaving their jobs either temporarily or permanently.

In fact, employers do cope with leaves of absence required for jury service and for military leaves for reservists and members of the National Guard.

I would just like to quote a statement from a publication of the Office of the Assistant Secretary of Defense:

> Almost all members of National Guard and military Reserve units take part in some type of training, whether weekend drills, summer camp or special training. To attend this training, reservists often have to take time off from their jobs, with absences lasting from a few hours to a few months. Federal law protects reservists against being fired or denied certain employment benefits because their military activities interfere with their jobs.

One question in this booklet that I found useful to note asks: "Is a formal application for re-employment required?" The answer: "No. Employees away for military training are not on a formal leave of absence. Consequently, they do not require re-employment. It is more appropriate to say that they simply return to their jobs."

There is another publication the U.S. Army released in 1983, entitled "The Army Family" which clearly recognizes that the well being of the family and national security are interrelated. To quote that report:

> It is now generally recognized that families have an important impact on the Army's ability to accomplish its mission. This is true with other societal institutions, as well. The family life of members of organizations, once a private matter, is now an organizational concern. Geographic mobility, changing family structures and the recognition that competition between family and organizational needs can be destructive to both parties has led to the realization that family issues are no longer a private matter.

In conclusion, I would just like to say that caring for one's family members, whether young or old, serves an important social function. For when we cannot look after our own families, it is often left to the rest of society to meet their needs.

Preserving strong families is as important as preserving a strong national defense. Yet those in the national service of defending our country are provided with job protected leaves and those in the national service of rearing the next generation are not.

For one group, job protection is the law of the land. For the other, it is considered too complicated and expensive.

I think that family service is as important as military service and critical to our nation's future. I hope that your committees will consider service to the American family an important national priority and not a reason for dismissal from one's job.

Mrs. SCHROEDER. I want to thank you. I especially want to thank you for pointing out that this kind of leave is not extraordinary and it is at other places, I am really glad you dwelled on that.

[The full statement of Ms. Farrell follows:]

TESTIMONY OF
JUDY FARRELL, PROJECT COORDINATOR, ECONOMIC POLICY COUNCIL
OF THE UNITED NATIONS ASSOCIATION OF THE UNITED STATES OF AMERICA

BEFORE

THE HONORABLE PATRICIA SCHROEDER, CHAIR
SUBCOMMITTEE ON CIVIL SERVICE

AND

THE HONORABLE GARY L. ACKERMAN, CHAIR
SUBCOMMITTEE ON COMPENSATION AND
EMPLOYEE BENEFITS

COMMITTEE ON POST OFFICE AND CIVIL SERVICE
U.S. HOUSE OF REPRESENTATIVES

"Family and Medical Leave Act of 1987"
April 2, 1987

My name is Judy Farrell and I am Project Coordinator for the Economic Policy Council of the United Nations Association. Thank you for permitting me to comment on the Family and Medical Leave Act of 1987, H.R. 925. The Council's Family Policy Panel, a group of business, labor and academic leaders, issued a report in 1986 entitled Work and Family in the United States: A Policy Initiative, which concluded that a national family policy would strengthen the foundation of the family, contribute to worker productivity, and enhance our economic competitiveness by enabling workers to integrate successfully their job and family responsibilities. Among the panel's first recommendations was a call for a six month unpaid, job-protected parental leave and also job-protected leaves for all temporarily disabled workers. As The Washington Post noted, "The

panel put forth the most convincing argument of all for its recommendations: In the long- and the short-run they are cost-effective..."

I would like to address the cost issue today and the most frequently asked question about this legislation, "Who is going to pay for it?" First of all, I would like to suggest that we are all going to pay one way or another. The statistics on what is happening to the American family, particularly our nation's children, paint quite a picture: 1 out of 2 marriages ends in divorce, in 1984 single-parent families with children accounted for 26 percent of all family groups, over one fifth of our children live in poverty, the teenage suicide rate is at its highest level ever--12.5 for every 100,000; drug and alcohol abuse costs our economy close to $60 billion annually, and child abuse rates continue to climb. Furthermore, our infant mortality rate in the U.S. is higher than that of some Third World countries.

Costs to Business

I would like to now focus on the specific costs associated with this piece of legislation, especially since some astronomical figures are being floated about by organizations opposed to the Family and Medical Leave Act. The costs estimated by the U.S. Chamber of Commerce, for instance, are based on many assumptions, one being that employers will hire temporaries to replace those workers who take leave. The reality is that most employers, as a recent study of corporate practices has found, will redirect work and not hire replacements at all. Also, the figure of $5,000, which is estimated to be the cost of replacing each employee on leave,

does not make clear that it includes temporary agency fees and that it is for an 18 week period (which would mean paying a salary of about $277 per week for a word processing operator). Furthermore, the cost calculations fail to take into account that if an employee is fired after taking leave to care for a child or an elderly parent, a business will spend money anyway to replace that individual and train a new worker. American companies spend between $44 billion and $180 billion a year on formal and informal training of workers. In addition, the costs of turnover for any position can reach 93% of the position's one year salary.

In a 1986 Catalyst survey, 86% of companies responding said that setting-up a leave period and arranging for the continuation of benefits were relatively easy, 13% thought making arrangements for a leave was difficult and 6% considered the process difficult.

There have also been suggestions that the costs associated with this legislation will wreak havoc on business and the economy. Judging from recent history and the uncanny similiarity in the arguments used to oppose this bill and the Pregnancy Discrimination Act of 1978, I doubt that this will prove true. The PDA, if you remember, was also destined to bankrupt American business--the fact is that it did not. Surveys of those companies that now have generous maternity and parental leave benefits show that the overwhelming majority of employers would not have changed their policies if they were not mandated to do so by the PDA.

It is also assumed that there will be a tremendous loss in productivity if this legislation passes. Indeed, one-third of the cost estimates the U.S. Chamber of Commerce calculated for this

bill, which was approximately $16 billion, are for "lost productivity." Yet, employers in our study found that their family support policies, which included maternity and parental leaves, improved morale, and reduced turnover, absenteeism, and stress. Employers thought that these policies could positively affect an employee's job performance and improve productivity.

I think it also would be useful to examine the costs of "lost productivity" when leave is not provided. Specifically, the costs incurred when an employee under stress rushes back to work, takes "sick days" to care for a sick family member, or worries about placing a child in an inadequate infant care system. We should also remember that there are substantial costs when a well-trained and experienced worker quits altogether.

I have heard a great deal of concern voiced about the costs of this legislation to businesses, but little is heard on the costs to the economic security of the family when such job-protected leaves are not provided.

Costs to the Economic Security of the Family

Among families with children in the U.S., 65% had two paychecks (or dual earners) in 1986. Both parents are working in most families out of economic necessity--for even as the number of wage earners per family has increased over the past decade, family income has declined by 6%, and real family income would have declined 18% since 1973 if there had not been an influx of mothers into the workforce. Forty-one percent of married working women have husbands who earn less than $15,000 per year. As Senator Moynihan told our Council, the decline in real incomes of families over the past

decade would have been far worse had it not been for the increased earnings of wives and women heading households. The earnings of wives raised mean family incomes and reduced poverty.

The second paycheck is vital to many American families and the family's economic security and standard of living should be considered in the calculations of "costs" associated with this legislation. Losing a job and a second income is a high price to pay for taking care of your family. I would also like to suggest that the Committee consider the tax revenue that is lost and the impact on GNP. As one prominent economist noted, "The consequences of greater female employment for the economy include a higher measured gross national product (GNP) and the tax revenue to finance, among other things, extended retirement benefits for the elderly and educational benefits for the young."

Other Job-Protected Leaves

Managers already deal, on a regular basis, with employees leaving their jobs either temporarily or permanently. In fact, employers do cope with leaves of absence required for jury service and for military leaves for reservists and members of the National Guard. I would just like to quote a statement from a publication of the Office of the Assistant Secretary of Defense, National Committee for Employers Support of the Guard and Reserve, "Almost all members of National Guard and military Reserve units take part in some type of training, whether weekend drills, summer camp or special training. To attend this training, reservists often have to take time off from their jobs, with absences lasting from a few hours to a few months. Federal law protects reservists against being fired

or denied certain employment benefits because their military activities interfere with their jobs." One question in this booklet that is useful to note asks, "Is a formal application for reemployment required?" The answer, "No. Employees away for military training are not on a formal leave of absence. Consequently, they do not require reemployment. It is more appropriate to say that they simply return to their jobs."

The U.S. Army certainly realizes the important link between the well-being of the family and national security. This philosophy was clearly articulated in its 1983 report, "The Army Family" which stated, "It is now generally recognized that families have an important impact on the Army's ability to accomplish its mission. This is true with other societal institutions as well. The family life of members of organizations, once a private matter, is now an organizational concern. Geographic mobility, changing family structures and the recognition that competition between famly and organizational needs can be destructive to both parties has lead to the realization that family issues are no longer a private matter."

In conclusion, I would like to say that caring for one's family members, whether young or old, serves an important social function. For when we cannot look after our own families, it is often left to the rest of society to meet their needs. Preserving strong families is as important as preserving a strong national defense. Yet, those in the national service of defending our country are provided with job-protected leaves and those in the national service of rearing the next generation are not. For one group, job protection is the law of the land, for the other it is considered too complicated and expensive.

I think that family service is as important as military service and critical to our nation's future. I hope that your committees will consider service to the American family as an important national priority and not a reason for dismissal from one's job.

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Mrs. SCHROEDER. Congresswoman Morella.

Ms. MORELLA. I am just very pleased to hear the testimony of all of you.

Mr. Blankenhorn, tell me something about the Institute for American Values. I am very interested not only in your testmony, but I was looking at some of the articles that accompanied it, too. I don't know much about the Institute and I would like to know more.

Mr. BLANKENHORN. It is a small, new, public policy organization concerned with family issues, such as parental leave.

Ms. MORELLA. You are based in New York?

Mr. BLANKENHORN. Papers, conferences, the usual think tank things, based in New York. I would be happy to send you more material.

Ms. MORELLA. I am just curious about it. I think your thrust is very good, and I am really pleased that you testified on behalf of this bill. And I am very pleased to note, too, that we are talking about something that is cost effective, and I think that is a point we have got to get across. We are not talking about pie in the sky, we are talking about something that, if effectively utilized or brought out in the legislation, can be cost effective as well as promoting family values.

Mr. BLANKENHORN. It was astonishing to me to read the chamber's study on this matter. If a CEO walked into a board room with numbers that shaky and that unreliable, she or he would be fired on the spot. It is not an objective argument.

So, I think it is fair to say that I think the evidence lies in the fact that these are cost effective, productive policies.

The other thing I wanted to say, in answer to your question about our organization, is that we have really felt for too long, and Congresswoman Schroeder has really been an important national spokesperson on this issue, for too long we have been only rhetorically pro family.

And oftentimes family themes and the importance of the family has been used only rhetorically or, on the other hand, sometimes misused for a narrow ideological agenda that is not consistent with the realities and needs of most families.

So, the guiding purpose behind establishing this organization, focusing strictly on family issues, was to try to say, let's be substantively pro family, rather than simply rhetorically pro family, and let's talk about the realities of families, rather than otherwise. And so, we wanted to really focus on issues.

And I think that of all the family issues that we could think of before the 100th Congress, this might well be the most important.

Ms. MORELLA. Thank you very much.

Thank you, Madam Chairwoman.

Mrs. SCHROEDER. I, too, have no questions for the panel. I just want to commend you.

Ms. Young, you did a great job of pointing out that the baby is very important.

Mr. Spiegel, you are pointing out that fathers are very important. I find the fatherhood project in New York and some of the other things so critical, and when you go back, it is amazing how

we overlooked that role. So, I really commend you for being that courageous.

And Mr. Blankenhorn, believe me, we are delighted to see the Institute for American Values countering what the chamber said. I was just as shocked as you were by some of the things that they have come forward with. It has been very frustrating to see people wrap themselves in the family and the flag, but then whenever they have a chance to do something, it is not now, it is not the time, we can't be competitive, and every competitor that is knocking our socks off did this years ago. So, something must be wrong.

And, Ms. Farrell, we thank you, too, for your pointing out that this is not a radical idea. We have already been doing this in places.

So, thank you all for being here and shedding light from different aspects. We really appreciate it. Thank you.

Mrs. SCHROEDER. We have our final panel this morning that we are very pleased to call to the table.

First of all, Vincent Sombrotto cannot attend for the National Association of Letter Carriers, so we will put his testimony in the record.

[The statement of Mr. Sombrotto follows:]

NATIONAL ASSOCIATION OF LETTER CARRIERS
AFL-CIO

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TESTIMONY
OF
VINCENT R. SOMBROTTO, PRESIDENT
NATIONAL ASSOCIATION OF LETTER CARRIERS
ON
FAMILY AND MEDICAL LEAVE ACT
BEFORE THE
CIVIL SERVICE SUBCOMMITTEE
AND
SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS

APRIL 2, 1987

CONGRESSIONAL TESTIMONY

MADAM CHAIR. THANK YOU FOR HOLDING HEARINGS ON H.R. 925, THE FAMILY AND MEDICAL LEAVE ACT. THE NATIONAL ASSOCIATION OF LETTER CARRIERS (NALC), WHICH REPRESENTS MORE THAN 290,000 ACTIVE AND RETIRED CITY LETTER CARRIERS, WOULD LIKE TO ADDRESS -- AND SUPPORT -- THE SECTION OF THE BILL WHICH DEALS WITH PARENTAL LEAVE. THE ABSENCE OF ADEQUATE PARENTAL LEAVE IS A PROBLEM FOR LETTER CARRIERS AND IS A BARGAINING ISSUE IN OUR CONTRACT NEGOTIATIONS.

THE PARENTAL LEAVE PORTION OF H.R. 925 WOULD ALLOW EMPLOYEES ADMINISTRATIVE LEAVE FOR PARENTAL PURPOSES UPON THE BIRTH OR ADOPTION OR SERIOUS HEALTH CONDITION OF A CHILD. THE EMPLOYEE USING PARENTAL LEAVE WOULD BE ENTITLED TO RETURN TO THE SAME POSITION HELD PRIOR TO THE ABSENCE.

THIS IS A FUNDAMENTALLY SOUND CHANGE IN POLICY. WE ARE A COUNTRY WHICH PRIDES OURSELVES ON BEING "PRO-FAMILY," YET WE ARE WOEFULLY BEHIND MOST OTHER INDUSTRIALIZED COUNTRIES IN PARENTAL LEAVE, A BASIC NECESSITY FOR PARENTS AND CHILDREN. IN ALMOST ALL OTHER INDUSTRIALIZED COUNTRIES -- AND MANY DEVELOPING COUNTRIES -- ESTABLISHED PAID LEAVE IS A NATIONAL POLICY. YET THE UNITED STATES HAS NO SUCH POLICY.

THE "AVERAGE" AMERICAN FAMILY -- AND THE AVERAGE LETTER CARRIER'S FAMILY -- NO LONGER IS THE "FATHER KNOWS BEST" IMAGE OF A WORKING FATHER AND HOUSEWIFE MOTHER. A MAJORITY OF WOMEN ARE NOW PART OF THE WORK FORCE. IN 1984, 48 PERCENT OF ALL WOMEN WITH CHILDREN UNDER ONE YEAR OLD WERE IN THE LABOR FORCE. THE MAJORITY OF NEW FAMILIES HAVE TWO

WORKING PARENTS. TWO INCOMES ARE NOT A LUXURY BUT A NECESSITY. THERE ARE NUMEROUS SINGLE-PARENT HEADS OF HOUSEHOLDS. FATHERS ARE BECOMING MORE INVOLVED WITH RAISING CHILDREN. THESE ARE SOME OF THE REALITIES OF AMERICAN LIFE IN THE 1980s. UNFORTUNATELY, THE LAWS GOVERNING PARENTAL LEAVE HAVE NOT CHANGED WITH THE CHANGING FAMILY STRUCTURE IN AMERICAN SOCIETY; THEY ARE RELEVANT TO AN EARLIER PERIOD IN AMERICAN HISTORY.

POLICY IN THE U.S. POSTAL SERVICE (USPS) SHOULD REFLECT THE LATEST DEMOGRAPHIC CHANGES. HOWEVER, THE PARENTAL LEAVE POLICY IS A GOOD EXAMPLE OF A POORLY PLANNED, OUT-DATED APPROACH TO PARENTAL LEAVE. THE MOTHER OF A NEWBORN IS ALLOWED TO USE SICK AND ANNUAL LEAVE (IF SHE WANTS TO MAINTAIN HER INCOME), OR SHE CAN TAKE A LIMITED AMOUNT OF LEAVE WITHOUT PAY. IN THE CASE OF PATERNAL OR ADOPTING PARENTS, THE INDIVIDUAL CAN USE ANNUAL LEAVE OR LEAVE WITHOUT PAY. THE LENGTH OF TIME IS DETERMINED BY A CONSULTATION BETWEEN THE INDIVIDUAL, THE PRIVATE DOCTOR AND THE USPS, WHICH EMPLOYS DOCTORS. THUS, TWO INDIVIDUALS WITH SIMILAR CIRCUMSTANCES CAN GET DIFFERENT DETERMINATIONS. SUCH A POLICY IS LIKE LOOKING THROUGH THE WRONG SIDE OF A TELESCOPE. WHILE IT IS IMPORTANT TO BASE DETERMINATIONS ON INDIVIDUAL NEEDS, THOSE DECISIONS SHOULD FLOW FROM STANDARDIZED PROCEDURES.

THE NALC IS CONVINCED THAT BOTH THE NEEDS OF THE POSTAL SERVICE AND LETTER CARRIERS CAN BE ACCOMMODATED. SOME PRIVATE CORPORATIONS ALREADY HAVE PARENTAL LEAVE POLICIES WHICH WORK TO THE ADVANTAGE OF BOTH EMPLOYER AND EMPLOYEE. UNFORTUNATELY, THE CURRENT POSTAL SERVICE SITUATION FORCES INDIVIDUALS TO PIT JOB SECURITY AGAINST FAMILY NEEDS, SOMETIMES RESULTING IN FAMILY TRAGEDY. WE WOULD LIKE TO WORK TOWARD A SITUATION WHERE THE USPS AND LETTER CARRIERS CAN BALANCE BOTH FACTORS.

MADAM CHAIR, EMPLOYEES ARE ASKING FOR THE RIGHT TO RAISE A FAMILY. THE FULFILLMENT OF THAT DESIRE WILL BENEFIT SOCIETY AS A WHOLE BECAUSE PARENTAL LEAVE IS A HEALTHY INVESTMENT IN THE FUTURE OF OUR COUNTRY -- NAMELY, OUR CHILDREN. PARENTAL LEAVE PROVIDES A DIRECT BENEFIT TO SOCIETY BY HELPING TO REDUCE PHYSICAL AND MENTAL PROBLEMS FOR FATHER, MOTHER AND CHILD. IT ALSO WILL RAISE EMPLOYEE MORALE.

THE GOVERNMENT SHOULD CATCH UP TO PRIVATE SECTOR LEADERS IN THIS AREA; SOME LARGE AND SMALL PRIVATE CORPORATIONS HAVE ALREADY HAD RESOUNDING SUCCESS WITH PARENTAL LEAVE.

THANK YOU, MADAM CHAIR. IF YOU HAVE ANY FURTHER QUESTIONS, I WILL BE GLAD TO ANSWER THEM AT THIS TIME.

Mrs. SCHROEDER. Attending today, we have Barbara Hutchinson, who is the Director of the Women's Department of the American Federation of Government Employees, and who is accompanied by Yolanda Chrzanowski, who is the Vice President of AFGE Local 1923; we have Ed Murphy, who is the Legislative Director of the National Association of Government Employees; we have Thomas Spangler, who is the Legislative Liaison of the National Treasury Employees Union; and we have Beth Moten, who is the Legislative Liaison for the National Federation of Federal Employees.

We are very pleased to have all of you here this morning, and I guess we will just take you in order.

Ms. Chrzanowski, I am going to let you pronounce that properly. I am sorry, I am either putting in too many syllables on mispronouncing them, or doing something. But please, lead off.

STATEMENTS OF BARBARA HUTCHINSON, DIRECTOR, WOMEN'S DEPARTMENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, ACCOMPANIED BY YOLANDA ORTEGA CHRZANOWSKI; EDWARD MURPHY, LEGISLATIVE DIRECTOR, NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES; THOMAS SPANGLER, LEGISLATIVE LIAISON, NATIONAL TREASURY EMPLOYEES UNION; AND BETH MOTEN, LEGISLATIVE LIAISON, NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Ms. CHRZANOWSKI. Good morning. I am Yolanda Ortega Chrzanowski. I am pleased to appear before you today on behalf of the AFGE, representing over 700,000 federal employees nationwide.

I am the Secretary of AFGE Local 1923, representing the employees at the Social Security Administration Headquarters in Baltimore, Maryland.

I have been employed with Social Security for 20 years. In my position as secretary of the local, I have served as a grievance representative, on negotiations, and other matters for our members.

In my position of secretary, I have over the past three years seen a rise in the number of our women workers who are being arbitrarily denied the use of leave for maternity and pregnancy related purposes.

In the past year I have had at least 20 incidents which required activity by our local to assure the grant of a maternity leave request.

Leave requests of women workers are denied because the agency contends that their medical documentation is insufficient. Most women workers in the agency who submit a leave request with a doctor's statement that recommends more than six weeks of maternity leave are often required to return to their physician for a more detailed statement, showing what time period they will be medically incapacitated, or the agency health officer calls the doctor for this information, or management ignores the doctor's advice.

We have had instances where female employees have been placed on AWOL and threatened with termination if they do not return to work at the end of six weeks of leave.

Even in instances where medical information may support periods longer than six weeks, the management requires that the

person submit multiple requests, which are only approved six weeks at a time.

In addition, the agency inconsistently applies the grant and denial of leave for maternity purposes.

In certain higher paying job categories, such as analyst positions—for example, systems and policy—management routinely grants six months leave to women workers.

Women in lower paying jobs are held hostage by the practice of the agency of only granting short periods of leave. They are unable to plan their finances and child care needs because they do not know if at the end of the six week period they will be required to return to work or face losing their jobs.

Since the State of Maryland law prohibits the enrollment of children under two years of age in licensed day care facilities without approval of the county health office, women with small infants are forced to use babysitting provided by relatives or persons babysitting in their own dwellings.

Everyone does not have a family member available and neighborhood babysitting, although available, does not provide a consistent level of quality child care.

As a consequence of these practices, our women workers are beginning to feel that requesting maternity leave or paternity leave is a futile process.

Even though our union contract provides for six months of leave, it is not given without the union indicating their interest in the matter or an actual grievance being filed.

Requests for advanced sick leave for maternity purposes are routinely denied.

We, in our local, recognize the critical need for the enactment of H.R. 925.

We have negotiated an appropriate collective bargaining agreement, we have grieved these matters, and we have even initiated an informal class complaint on the denial of leave.

In those situations where the management found that we were ready to proceed on denials, then they were granted.

If this legislation is passed, then the leave period authorized by statute will be clear.

The current regulations do not mandate that leave be granted. Our experience has shown that we have to constantly enforce our contract on a case by case basis.

We welcome this legislation, as it will serve to solidify rights which have previously been secured under our union contracts and will help to ensure that management will apply uniform standards in the grant and denial of leave for maternity purposes.

We urge the passage of this legislation and hope that Congress recognizes the need to support the American family of today.

Thank you.

Mrs. SCHROEDER. Thank you very much. We appreciate you being here.

Mrs. SCHROEDER. Our next witness is Edward Murphy, who is with the National Association of Government Employees. We welcome you.

STATEMENT OF EDWARD MURPHY

Mr. MURPHY. Thank you, Madam Chair.

The National Association of Government Employees is an affiliate of the Service Employees International Union, AFL-CIO.

We are pleased to have this opportunity to appear and present our public support for H.R. 925.

NAGE applauds the joint Chairs for their hard work towards advancing this bill. In a country as rich and technologically advanced as our own, it is a shame how backward we are, despite an abundance of rhetoric to the contrary, in providing support to families during illness or following the birth or adoption of a child.

A national family leave policy is not only an important element in our society's commitment to our children, but also is important for our economy.

This bill would provide support structures to working parents necessitated by an explosion in the number of women in our economy.

This explosion of women in the work force is likely to continue, as projections developed by the Department of Labor indicate that between now and the year 2000, women will account for fully two/thirds of the labor forch growth.

If we are to ease the hardships expected as a result of the labor shortages in the year 2000 and before and allow for full economic growth, we must accommodate the needs of this rapidly growing segment of the work force.

This bill is an important step in that direction.

There is, we think, a special need for a clear parental policy in the federal government, where the work force is composed of a very high percentage of professional, technical and administrative personnel. This is exactly the work force which the Labor Department projects will be most scarce by the year 2000.

The federal government is already experiencing severe recruitment and retention problems caused by federal pay, which lags some 20 percent behind the private sector, and inferior health insurance benefits.

The government cannot afford to provide inferior family leave benefits, which are so crucial to this rapidly expanding segment of the work force.

There is a clear link between productivity and the capacity to recruit and retain top people. There is also evidence that suggests a link between recruitment, retention and family leave benefits amongst certain groups of key employees.

In our local at the Manchester, New Hampshire Veterans Administration Hospital, for instance, there is an acute shortage of nursing staff. At that location, managers struggling to maintain service with inadequate staff attempted to limit maternity leave to four weeks following the birth of a child.

The response of several of our members, frustrated at being forced to choose between commitment to their patients and their children, was to quit and take a higher paying, more flexible job in a local hospital.

This increased the staff shortages further and led to a further decline in the number of beds serviced. While these managers were

no doubt well meaning, the absence of a clearly defined federal policy on maternity leave had a direct impact on productivity at this hospital.

In NAGE's view, family leave policy is so crucial to the government's ability to recruit and retain workers, and ultimately to productivity, that its terms need to be standardized consistent, as a minimum, with the terms of H.R. 925.

The government should strive to develop a reputation as an employer which is supportive of families. The broad discretion currently granted to individual supervisors is impeding that end and damaging the recruitment and retention of key personnel in the midst of childbearing years.

We thank you for your leadership on this important issue and for this opportunity to appear and present our views. We pledge our support to advance this legislation.

Mrs. SCHROEDER. Thank you so much. We really appreciate you adding that to it, because I think you gave us another focus that was important.

[The full statement of Mr. Murphy follows:]

NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES

AFFILIATED WITH SERVICE EMPLOYEES INTERNATIONAL UNION, AFL CIO

The National Association of Government Employees is an affiliate of the Service Employees International Union (AFL-CIO). We are pleased to have this opportunity to appear and present our public support for HR 925 the Parental and Medical Leave Act of 1987.

The NAGE applauds the Joint Chairs for their hard work towards advancing HR 925. In a country as rich and technologically advanced as our own it is shame how backward we are, despite an abundance of rhetoric to the contrary, in providing support to families during illness or following the birth or adoption of a child. The legislation under consideration today would go a long way towards ameliorating this problem by providing much needed minimum leave standards to support the modern working family. Under the bill all workers would be guaranteed a minimum of eighteen (18) weeks of leave following the birth or the adoption of a child or to care for a seriously sick child or parent. This bill would remove the terrible choice faced by many working parents forced to decide between their jobs or providing needed care to newbornes or sick family members.

A national family leave policy is not only an important element in our societies committment to our children, but also

is important for our economy. The bill is in large part a response to the rapidly changing demographics in our society. The "traditional" american family where the husband is the sole breadwinner, and a stay at home wife who manages the home and children is a rapidly disappearing species accounting now for only 10% of the population. Today the more typical american family is supported by the wages of both husband and wife, both of whom are employed outside the home. Data provided by the Department of Labor indicates that in 1985, 54% of the women with children under six were working, which is four times the 1950 levels. Even more striking is the data indicating that half of all mothers with infants are in the workforce. During this same period of time the number of single parent families has skyrocketed accounting now for 16% of all families. According to the Department of Labor, women now account for 44% of the workforce. This explosion of women in the workforce is likely to continue, as projections developed by the Department of Labor indicate that by the year 2000, when it is widely anticipate that we will suffer a labor shortage, women will account for fully two thirds of the labor force growth. We must provide support structures to ease the burdens faced by families juggling work and family obligations, not only because of the high value we place on the quality of family life but

also to allow our economy to expand by accomodating the needs of this most rapidly expanding segment of our workforce.

Our parent union, the Service Employees International Union, which has over 850,000 members in the service sector over half of them women, testified earlier in support of HR 925 before the House Education and Labor Committee. In that testimony they elaborated on the demonstrated need for this legislation in the private sector. In our testimony this morning I will direct my remarks to the need for this bill among federal workers.

There is no distinct federal policy on parental leave. There is instead broad discretion provided to individual supervisors in arranging the length of parental leave. There is as a result of this broad discretion a lack of consistency among agencies, facilities, and supervisors in the granting of leave. Thus an employee's opportunity for obtaining adequate time off is subject to chance determined in large part by the attitude of the individual supervisor under which the employee works.

This absence of a clear policy on parental leave is not because of a lack of need among workers or management. The explosion of women into the federal workforce has mirrored the private sector phenomena. In 1985 fully 40% the federal workforce was composed of women, with a large percentage of those women of childbearing age. We expect that the Department of Labor projections indicating that two-thirds of the workforce growth by the year 2000 will be women will be true in the federal government as well.

One major way in which the federal workforce is distinct from most private sector workforces is that it has a higher percentage of professional, technical and administrative personnel. This is exactly the workforce which the Labor Department projects will be most scarce by the year 2000. The federal government is already experiencing severe recruitment and retention problems caused by federal pay which lags 20% behind the private sector, and inferior health insurance benefits. The government cannot afford to provide inferior family leave benefits, which is so crucial to this rapidly expanding segment of the workforce. If the federal government is to succesfully compete for this valuable workforce it must be a <u>leader</u> in providing family leave benefits.

There is, we believe a developing link between recruitment and retention, productivity and adequate family leave policies. Some Agencies are losing key workers as a result of inadequate family leave provisions. In our local at the Manchester, New Hampshire Veterans Administration Hospital, for instance, there is an acute shortage of nursing staff. At that location managers struggling to maintain service with inadequate staff attempted to limit maternity leave to four weeks following the birth of a child. The response of several of our members frustrated at being forced to choose between committment to their patients and their children was to quit and take a higher paying, more flexible job in a local hospital. This increased the staff problems further and lead to a further decline in the number of hospital beds serviced. While these managers were no doubt well meaning, the absence of a clearly defined federal policy on maternity leave had a direct impact on productivity at this hospital.

At the Bedford, Massachusetts Veterans Administration Hospital a nurse who had been unable to negotiate an agreeable length of maternity leave with management was served with a telegram advising her to report to work the following Monday or be listed as absent without leave. The nurse contacted the

union which arranged a tenative settlement with personnel whereby the nurse could work parttime, and be carred in a leave without pay status for one year. This arrangement was reached with personnel when the nurse indicated she would quit unless a satisfactory arrangement could be worked out. This arrangement was however, vetoed by the head nurse who was determined not to lose the services of scarce staff, and attempted to hard bargain over this sensitive area. The head nurse asserted to the parties that in her view the employees would "back out" of the threatened action. On the day our member was "clearing out" to seperate from government the head nurse reconsidered and approved the deal. Our member, who had decided that the Bedford V.A. was unsympathetic to the challanges of the working parent, did not reconsider and quit as threatened.

In NAGE's view family leave policy is so crucial to the government's ability to recruit and retain workers, and ultimately to productivity that it's terms needs to be standardized consistent as a minimum with the terms of HR 925. The government should strive to develop a reputation as an employer which is supportive of families. The broad discretion currently granted to individual supervisors is impeding that end and damaging the recruitment and retention of key personnel in the midst of childbearing years.

One provision under HR 925 we find particularty useful are those sections allowing employees to work in a part time arrangement for a defined period of time following the birth of a child, or while recovering from a serious illness. This provision allows a parent the opportunity to contribute towards the family budget while making the difficult transition away from the home back to full time employment. Part time employment is also of substantial benefit to the employer since it allows for the retention of key personnel who might otherwise be lost.

NAGE strongly supports provisions in the bill that creates a Commission to study providing paid compensation to employees taking medical leave. In the federal government over 70% of all women are in grades 1 to 8. To these employees and to the majority of single parent families maternity leave is not a valuable option without the addition of compensation. We would strongly support the inclusion of disability insurance protection to address this problem. We note that a growing number of private sector companies are providing employer paid disability coverage for their workers. This benefit is crucial to all the workforce, not only those of childbearing age, since all of us are subject to unexpected disabling illness.

We also strongly support provision in the bill which clearly provide employees with the right to continue their participation in the Federal Employees Health Benefit Program. The loss of health insurance to a recovering employee or a nursing mother is almost certainly a financial disaster.

One area of common complaint we hear from our members is the federal government's policy on using sick leave to care for a sick child. As you are aware under current regulations an employee may only use his or her sick leave if the child has a "contagious disease". This creates a host of arbitrary decision where a parent caring for a child with the asian flu is denied sick leave but a parent caring for a child with the mumps may be granted sick leave. To the worried parent these distinctions are without any substantial difference since few responsible day care arrangements will provide for the care of a sick child. The arbitrary nature of the regulation is so widely viewed as unfair that substantial numbers of employees circumvent the regualtion by calling in sick themselves. This regulation places both labor and management in an awkward, unproductive situation and we urge that this matter be addressed in the legislation.

The second broad policy area addressed by this bill is to provide temporary medical leave of up to 26 weeks for seriously sick employees. This provides a bare minimum of protection to insure that workers are treated in a humane manner during this crucial time of need. It provides protection to insure against the loss of an employee's job at a time when the individual and family is most vulnerable. We think provisions in the bill providing for the right to work a reduced work week during this period of incapacitation may be particularly helpful to effected emplpyees.

In conclusion the NAGE applauds the Joint-Chairs and the Members of these Sub Committees for taking this important step forward to strengthen and nurture families. This national family leave policy would benefit not only workers but also agency productivity. We pledge our support to advance this legislation.

We thank you again for this opportunity to appear and present our views on this important topic. We would attempt to answer any questions the Committee cares to address to us.

Mrs. SCHROEDER. Next we have Thomas Spangler, who is representing the National Treasury Employees Union.

STATEMENT OF THOMAS SPANGLER

Mr. SPANGLER. Thank you, Madam Chair.

In the interest of brevity, I will keep my oral comments down to just two points.

One, I would like to comment on the specifics of the bill, specifically that even though NTEU and other unions have been successful in negotiating contracts which do provide a rather high standard of leave without pay, annual leave, sick leave, combination for our employees—I think we mention two examples in our testimony, IRS, six months, and Customs, five months—we, like other labor unions, face an underlying problem in the federal sector.

The law requires that we and the government itself take in consideration the individual supervisor's discretion. That must be taken into consideration by law, regardless of what the union or anybody else negotiates in a contract.

We think that this law certainly is valid in that aspect, in that it takes that particular underlying weakness, as we see it, in the current law and deals with it effectively.

So, we commend you on that and we certainly support the provision because it addresses a real need.

I have one other thing I would like to comment on.

As I spent four-plus years as assistant counsel for negotiations for NTEU, in that capacity oftentimes I came into an environment where there had not been a union, perhaps another union was there where there wasn't a great deal of activity, and it was encumbent upon us to negotiate, obviously, a comprehensive collective bargaining agreement to address the needs of the emloyees.

There was one occasion involving the Food Nutrition Service, Department of Agriculture, in Chicago.

At that time I was serving not only in the capacity as the chief negotiator, but also, temporarily, as the field representative.

There was a case that came to my attention in the capacity as the field representative in which a bargaining unit employee was being denied leave without pay, despite the fact that she had a documented, medically documented chronic illness.

Now, so I don't misrepresent this, to the agency's credit, I think they did give her a two to three month leave without pay before that period of time. But this illness was chronic. It was ongoing. As I said, it was medically documented. And they simply made a managerial decision not to continue that, gave her the option of coming back to work or simply being dismissed. And that was based, as best we could determine, on simply the agency's perceived need to have this person back in place.

We were left with little recourse—we didn't have a collective bargaining agreement in place at the time—but to file an EEO complaint.

I left before that was resolved, so I am not sure how that was ultimately resolved.

However, obviously the point in bringing up this example is that this bill, I think, would also adequately address that particular problem.

Thank you.

Mrs. SCHROEDER. Thank you very much. We appreciate that little window into reality.

[The full statement of Mr. Spangler follows:]

STATEMENT OF
THE NATIONAL TREASURY EMPLOYEES UNION

Chairwoman Schroeder, Chairman Ackerman,
and Subcommittee Members

I would like to thank you for giving the National Treasury Employees Union an opportunity to express our support for H.R. 925, the Family and Medical Leave Act of 1987. As you know, this legislation would allow a parent to take eighteen weeks of unpaid leave for the care of a newborn, newly adopted or sick child, and provides twenty-six weeks of leave for a worker with a serious illness or health problem. As the exclusive representative of over 120,000 Federal employees in sixteen government agencies, NTEU fully supports this measure and would like to commend you for your leadership in pushing for the enactment of this important legislation.

NTEU supports H.R. 925 because it recognizes the changing composition of the American family. A decade or two ago, the typical family consisted of a male breadwinner, and a female who provided full-time care for the children. Today, however, that is no longer the norm. It now takes two breadwinners to make ends meet. In most American families, both parents work. Current forecasts indicate that, by the early 1990's over 65 percent of all U.S. mothers will be gainfully employeed. (Over sixty percent of women with children under three are in the

workforce.) Despite these fundamental changes, only half of the female workforce has maternity benefits, and only about forty percent of our country's female workers can reclaim their jobs after taking maternity leave. The Family and Medical Leave Act of 1987 addresses the problems associated with the changing family by providing a minimum job-security policy, which prevents workers from having to choose between family and employment.

The United States stands alone as an industrialized country with no national policy on parental leave. In Austria, a new mother may take up to one year's maternity leave, and receive 100 percent of her pay for twenty weeks. A mother or father in Finland may take up to thirty-five weeks of leave, with full pay, for the care of a new child. In Chile, a parent is entitled to eighteen weeks of fully paid parental leave. Compared to the national policies of other countries, the Family and Medical Leave Act is a modest measure.

As the nation's largest employer, the Federal Government should be setting an example for other employers to follow in the area of parental leave, as well as job security during times of serious illness. While the Office of Personnel Management (OPM) provides Federal agencies with guidelines regarding absences for maternity and other reasons, it is up to

each agency to create its own policy. The result is an inconsistent, agency by agency approach to the problem of parental and medical leave, with each agency having a substantial amount of administrative discretion.

We at NTEU have been able to negotiate favorable parental leave treatment for many of our members. Our National Agreement with the U.S. Customs Service provides five months maternity leave. This same contract allows a male employee up to thirty days of leave "for the purposes of assisting or caring for his minor children or the mother of his newborn child while she is incapacitated for maternity reasons." Our contract with the National, Regional and District Offices of the Internal Revenue Service provides a normal maternity leave of at least six months. A male employee covered under this contract is also entitled to either full-time or part-time leave for the care of his wife or new child.

Our contracts, however, benefit only our members, not the entire Federal workforce. In most instances, an employee's benefits are determined by the agency he or she works for and the agencies are without consistency on these issues. Out of 53 agencies, only 14, or 27 percent, have any adoption leave policy. Sixty-six percent (35 of 53) of Federal agencies have an "unspecified" maternity leave policy, subject to

administrative discretion, and 83 percent have an unspecified paternity leave policy, again subject to administrative discretion.

As a result of the amount of discretion supervisors have on an employee's decision to take parental or sick leave, the request of one employee is sometimes treated differently from the leave request of another, depending on an employee's relationship with his or her supervisor. A minimum uniform standard, such as that contained in H.R. 925, is needed to ensure the fair treatment of Federal employees concerning something as important as parental and medical leave. By granting a new, minimal right of leave, the ability of NTEU to protect our employees from questionable supervisory decisions would be strengthened.

Unfortunately, many low wage earners will be denied the right of parental and medical leave unless some sort of wage replacement is adopted. One out of every four families in the United States is headed by a single parent. These families are economically dependent on that parent's paycheck, and cannot afford the "luxury" of leave without pay, even if it is for the care of a sick child.

There are five states, California, Hawaii, New Jersey, New York, and Rhode Island which currently have laws requiring employers to provide workers with disability coverage that includes salary replacement for a period of disability, including maternity disability, of up to twenty-six weeks. NTEU believes the possibility of salary replacement for disability and maternity leave as a national policy should be studied. We fully support the call for a national study of wage replacement for leave for family care included in H.R. 925.

In conclusion, I would like to point out that our negotiated contracts, as mentioned earlier, are proof that the "gloom and doom" consequences predicted by some are not occurring. We at NTEU invite you to talk to management representatives in the Customs Service and IRS, where we have been able to negotiate the most generous provisions. I believe they will tell you that parental leave can work to everyone's benefit.

We urge Congress to pass this much needed pro-family legislation and we look forward to working with you to ensure its enactment.

I would be happy to answer any questions you may have.

TG:rg (2204L)

Mrs. SCHROEDER. The final witness this morning is Beth Moten, who is the legislative liaison for the National Federation of Federal Employees. Welcome.

STATEMENT OF BETH MOTEN

Ms. MOTEN. Thank you, Madam Chair.

I appreciate the opportunity to testify today on H.R. 925. I will also keep my remarks brief.

Certainly, the National Federation of Federal Employees has supported the bill, and we commend your efforts to move it quickly through committee.

I do have two suggestions for improving the bill.

First of all, in many organizations and institutions, the use of sick leave is not limited to just the employee's illness but also to the illness, whether routine or serious, of one's children.

We would like to see the federal sick leave policy expanded so that employees could also use their sick leave in order to stay home and care for their children when they are ill.

Under current regulations, an employee may only use his or her own sick leave to care for an ill child if the disease is contagious and the child has been quarantined.

Clearly, the responsibility of child rearing does not stop once the maternity or paternity leave periods are over. After working parents have returned to their jobs and placed their children with day care centers or babysitters, they still must be responsible when their children become ill. Few sitters or day care centers are equipped with sufficient staff to care for ill children.

Because of this, employers must begin to be more flexible about the needs of workers to remain at home with their children, even during times of routine illnesses.

The average six year old with a 24 hour influenza should not be left alone at home, and if that child needs to see a doctor, the responsibilities of his parents are even greater.

Currently, federal sick leave policy does not permit an employee to use sick leave for such purposes, and we believe that H.R. 925 could easily be amended to change that.

Secondly, NFFE would like to see the benefits of this legislation applied equally to temporary and intermittent workers in the federal government.

For example, both the Department of Agriculture and the Department of Interior employ large numbers of both professionals and non-professionals in these categories.

In fact, approximately 60 to 75 percent of the teachers in Bureau of Indian Affairs schools would likely not be covered under this bill. Public Law 95-561 created a new personnel system for BIA educators which requires them to sign a contract every year they are employed. Sometimes these contracts are renewed, sometimes they are not.

It is feasible that the Office of Personnel Management, in proscribing regulations to implement this legislation, would consider such teachers temporary.

Even aside from BIA educators, there are hundreds of cases of temporary employees working longer than career employees. Yet these workers receive few benefits.

In addition, the Forest Service employs a large number of temporary and intermittent employees. Many intermitent workers actually have career status, and should be entitled to the benefits provided under this bill, as well.

We urge you to eliminate these exceptions from the legislation.

That concludes my statement. I will be happy to answer any questions.

Mrs. SCHROEDER. Thank you.

[The full statement of Ms. Moten follows:]

STATEMENT BY

THE NATIONAL FEDERATION OF FEDERAL EMPLOYEES

I appreciate the opportunity to testify today on H.R. 925, the Family and Medical Leave Act of 1987. I commend your attention to the need for a national leave policy for employees who must spend time with their new families and for workers with serious illnesses. With the United States lagging so far behind other nations in developing such employment policies, the legislation is absolutely necessary. The National Federation of Federal Employees looks forward to working with your respective Subcommittees to ensure passage of the bill.

H.R. 925 would give civil service employees 18 administrative work weeks of leave without pay because of the birth of a child, the adoption or foster care of a child, or to care for an employee's seriously ill child or parent. Furthermore, the bill would allow 26 work weeks of leave without pay to employees who are seriously ill. Just as important, the employee using either family leave or temporary medical leave would be entitled to return to the same position held by the employee prior to the use of the leave. The recognition that workers need time to care for a new or ill family or to recover from a serious illness is long overdue. H.R. 925 takes the first step toward ensuring that a worker's right to care for his or her family will be protected.

The NFFE is equally pleased to note the legislation before your Subcommittees would extend family or temporary medical leave to Non-Appropriated Fund (NAF) employees. NAF workers have been consigned to a second-class citizenship that has lasted for nearly a century. They receive fewer rights and less pay and benefits than civil service employees under Title 5, U.S. Code. They are not afforded the benefits of health and life insurance or civil service retirement. Your inclusion of these important workers in the coverage of this bill is to be commended.

The need for a more equitable family and medical leave policy in the Federal Government is long overdue. Currently, a supervisor's decision to grant leave without pay in addition to annual or sick leave for maternity or paternity reasons is an arbitrary one, subject to favoritism. Those employees with less than understanding supervisors are often forced to return to work following the birth of a child before they are physically ready. So workers who value their family's sense of well-being often must sacrifice their job security. This is clearly an unreasonable choice which could be avoided with the passage of this legislation.

Eighteen weeks of leave without pay for the care of new or seriously ill children, or ill parents, in addition to any sick leave, annual leave, and compensatory time off provided for Federal workers in H.R. 925 would be a dramatic improvement over the present system. Although we would certainly prefer that such leave were paid, we support the bill's requirement for a Commission to study ways to

fully or partially replace salaries lost during parental or medical leave. In addition, H.R. 925 clearly delineates for Federal workers their right to continue to participate in the Federal Employees Health Benefits Programs during family or medical leave status. Obviously, during such leave nothing could be more important to an employee than the right to continue his or her health insurance.

We also support the bill's provision to prohibit coercion of an employee requesting either family or temporary medical leave and to permit appeal rights for employees denied such leave. Any coercion or unfair denial of parental or medical leave would constitute a prohibited personnel practice. An employee who suffered from such a practice would be entitled to appeal the decision to the Office of Special Counsel or to file a grievance under a negotiated grievance procedure. Such protections are absolutely necessary if we are to implement successfully a new national family and medical leave policy.

Finally, NFFE believes a family leave policy is timely, given the language in the Fiscal Year 1987 Continuing Resolution, which improves the way the General Services Administration may consider requests to run child care centers in Federal buildings. Under the language in the Continuing Resolution, if a group wants to set up a center and space is available in a Federal building occupied by several agencies, the GSA could charge each agency a portion of the rent for the center. This would encourage child care providers to locate their facilities within Federal buildings, which is vitally

important to civil servants who find it difficult to locate convenient, affordable, and safe day care for their children.

The ideal would be for a Federal employee to be granted maternity or paternity leave until the family is secure, then to be able to place the child in a day care center at his or her worksite. We fully expect that a situation such as this would greatly improve worker morale, as well as increase a child's sense of security.

Just as important to Federal workers is the temporary medical leave provision in the bill. H.R. 925 would provide 26 work weeks of leave without pay with job protection during any 12-month period in which an employee becomes seriously ill. This provision would demand that the Federal Government treat such employees in a humane manner. All too often we hear of workers who, forced to undergo major surgery or extended hospitalization, are then threatened with job termination if they do not return to work promptly. A worker simply should not have to suffer such harassment in the midst of a serious illness or injury.

Unfortunately, several of NFFE's bargaining unit members have suffered from arbitrary decisions by supervisors displaying an astonishing lack of compassion. For instance, one probationary Federal employee was hospitalized several years ago after being physically attacked. When leave without pay was requested, the supervisor first denied the leave, then fired the employee for being absent without leave. Another employee, suffering temporarily from a treatable psychiatric disorder, was unable to follow leave proce-

dures in a proper manner. Nevertheless, she was fired with utter and complete disregard for the extenuating circumstances. Clearly, many managers believe that an employee's illness is none of their concern. Instead, they believe that the employee should be dismissed immediately so that the agency will no longer have to concern itself with the problem.

At the very least, such an attitude displays bad business sense. Most people do occasionally become ill, but that is no indication that they will be unproductive once they have recovered and are back at work. However, an employer may be certain that if an employee is harassed for use of leave because of illness, he will never forget it. If he is permitted to return to work, he will no doubt have lost the loyalty and dedication toward his job and employer that he may have once possessed.

Furthermore, the alternative of dismissing an employee because of an extended illness is extremely costly. The time required for a replacement to become knowledgeable about a position may take from six months to two years. Employers who fail to take into account the value of the experience of a temporarily ill employee will ultimately harm the productivity of the organization.

But more importantly, the temporary medical leave policy proposed in H.R. 925 shows the proper compassion toward a worker who becomes seriously ill by providing the employee with time off to recover

from the illness and the same position once he returns to work. Such treatment is the very least which workers should expect from their employers.

We have two suggestions for improving H.R. 925. First, many organizations and institutions, the use of sick leave is not limited to just the employee's illness, but also to the illness, whether routine or serious, of one's children. We would like to see the Federal sick leave policy expanded so that employees could also use their sick leave in order to stay home and care for their children when they are ill. Under current regulations, an employee may only use his or her own sick leave to care for an ill child if the disease is contagious and the child has been quarantined. Clearly, the responsibility of child-rearing does not stop once the maternity or paternity leave periods are over. After working parents have returned to their jobs and placed their children with day care centers or babysitters, they still must be responsible when their children become ill. Few sitters or day care centers are equipped with sufficient staff to care for ill children.

Because of this, employers must begin to be more flexible about the needs of workers to remain at home with their children, even during times of routine illnesses. The average six-year-old with a 24-hour influenza should not be left alone at home and if that child needs to see a doctor, the responsiblities of his parents are even greater. Currently, Federal sick leave policy does not permit an employee to use sick leave for such purposes. H.R. 925 could easily be amended to change that policy.

Second, NFFE would like to see the benefits of this legislation applied equally to temporary and intermittent workers in the Federal Government. For example, both the Department of Agriculture and the Department of Interior employ large numbers of both professionals and non-professionals in these categories. In fact, approximately 60-75% of the teachers in the Bureau of Indian Affairs would likely not be covered under this bill. Public Law 95-561 created a new personnel system for BIA educators which requires them to sign a contract every year they are employed. Sometimes these contracts are renewed; sometimes they are not. It is feasible that the Office of Personnel Management, in proscribing regulations to implement this legislation, would consider such teachers temporary.

Even aside from BIA educators, there are hundreds of cases of temporary employees working longer than career employees, yet these workers receive few benefits. In addition, the Forest Service employs a large number of temporary and intermittent employees. Many intermittent workers actually have career status, and should be entitled to the benefits provided under H.R. 925 as well. NFFE urges you to eliminate these exceptions from the legislation.

In conclusion, we commend both the Subcommittee on Civil Service and the Subcommittee on Compensation and Employee Benefits for your work on legislation which would change the manner in which employees -- both private and Federal -- provide leave for their workers. We look forward to working with you in order to secure this change.

That concludes my statement. I will be happy to answer any questions.

Mrs. SCHROEDER. I personally want to thank every member of this last panel. The hardest job in the world is to be the last panel, because everything always goes on longer than you think and you have to have the patience of a saint to sit through it.

I also want to say, your testimony was terribly important because I think a lot of you heard OPM's testimony earlier, which I am still not quite sure I understand about the highway and the speed limit. But part of it, as I understood, was that this was okay, this was going to be taken care of through collective bargaining. So, we thought it was very important to listen to employees' representatives and see what their position was. And so, therefore, we really appreciate all your written testimony.

Ms. Moten, I appreciate what you said, too, about temporary employees. It has just come to the committee's attention recently how widespread the use is becoming and temporary can be years, and hopefully we can find some way to plug that loophole. That appears to be a loophole that you can now drive ten trucks through, and they are used much more readily than we were aware of. So, we are glad that you pointed that out.

Congresswoman Morella.

Ms. MORELLA. Thank you. Again, I thank the panel for coming and waiting patiently and presenting such succinct testimony.

I wanted to compliment Ms. Chrzanowski on the fact that you brought out the situation where many states have really clamped down on licensing for day care centers for infants under two, and therefore it means that many people who must work for economic reasons, two spouses who are working, have got to rely on day care sometimes given by somebody in the neighborhood, and therefore the need for this kind of parental and family medical leave is even greater.

Would you agree with that? It is just that I think we sometimes tend to forget how difficult it is to have day care facilities for children under a certain age, deemed as infant.

I also wondered how you negotiate for something like this in a collective bargaining situation?

Mr. MURPHY. Well, first of all, you are guided by the limits the law allows. The FPM requires or certainly strongly suggests that the agency is—and all parties involved in collective bargaining must take into consideration the agency's needs, the agency's needs as determined oftentimes, most times, by the first line supervisor.

Now, this is something, as I was indicating in our testimony, that it certainly appears to me that Congress, and this particular committee in this instance has rightly done so, that you have determined that it is in the best interest of the government to take this, to allow this kind of leave. And instead of allowing the individual supervisors—and we have had eloquent testimony on it by previous people, more eloquent than I could do, that indicate how that was abused and in certain instances—I indicated I was aware of one instance where that was abused. I am sure there have been many others.

Instead of allowing that to be done, despite a collective bargaining agreement, to at least be attempted on a case by case basis, this makes it clear. This makes it clear, look, this is your right, this is your absolute right.

Ms. MORELLA. So, in other words, implementation of this bill, if it becomes law, takes it out of the collective bargaining situation?

Mr. MURPHY. Well, I wouldn't say it takes it out of the collective bargaining agreement. What it does, it allows—it takes the shackles off the union is what it does. In other words, even though we have been successful, for instance, and other unions have been successful in setting out in a collective bargaining agreement what both parties—because both parties are a party to the collective bargaining agreement—agree, that this is the norm. IRS, for instance, the norm is six months, by agreement.

Now, however, there is always that little caveat there, because we are required to have that under law.

And if you talk about an extreme work situation, which the employer can raise, and if you like, I can talk on and on about the OPM's comment concerning grievances and why that is probably such a low number. I think the weight is too heavily weighted toward employers' discretion currently, and it is a heavy burden for that employee to challenge, and the union representing that employee to challenge an employer's—what appears to be—good faith determination that given the circumstance of this particular employee's employment, we cannot allow them, let's say, the standard, in IRS's case, six months.

Now, certainly we would grieve that, we would challenge that. But that is always a little iffy. We may win, we may lose. Even though we have an understanding that six months is the norm.

Ms. MORELLA. I understand. What I was trying to determine is that, if you have uniform procedure and policy, it would help the union, because you could negotiate other things and you wouldn't have to worry that much about the arbitrariness of having to go to the bargaining table and saying, this procedure doesn't seem correct in that area. Is that right?

Mr. MURPHY. That is correct.

Ms. HUTCHINSON. It would remove this discretion that is moving back and forth over a period of time. And we brought with us today two incidents that recently arose, one as recent as March 31, 1987, where they just arbitrarily limited a request to six weeks, and they put in their reply to the union that it was because that is all the doctor's statement requested, was six weeks. This was for an infant, newborn infant, a maternity request.

And so, this bill would back up that collective bargaining agreement and provide that minimum floor that they have got to consider. They have got to consider a minimum floor.

And so, we would like to offer these two instances of some of the responses, so the committee can have that kind of example of what they are using as a basis for denial.

Mrs. SCHROEDER. Without objection, we are delighted to have that.

Ms. MORELLA. Thank you very much.

Mrs. SCHROEDER. I join in thanking you very much for your patience and your time and your insight. And if something else comes up that you think we should know, we really appreciate your guidance. We know you are out there having to implement and deal with this every day.

Thank you, and if you understand the 55 mile an hour speed limit, let us know. Thanks.

[Whereupon, at 11:55 a.m., the subcommittees were adjourned, subject to the call of the Chair.]

[The following statements were received for the record:]

American Postal Workers Union, AFL-CIO
1300 L Street, NW, Washington, DC 20005

April 6, 1987

Moe Biller, President
(202) 842-4246

The Honorable Pat Schroeder
Chair, Subcommittee on Civil Service
Committee on Post Office and Civil
Service
132 Cannon House Office Building
Washington, D.C. 20515

National Executive Board

Dear Madam Chair:

On behalf of the 335,000 members of the American Postal Workers Union, I would like to take this opportunity to express my support for H.R. 925, the Family and Medical Leave Act.

This landmark legislation would provide up to 18 weeks of unpaid leave over a 24 month period for the birth, adoption or illness of a child and up to 26 weeks of unpaid medical leave over a 12 month period if a worker is incapacitated by a serious medical condition. We believe that enactment of such legislation is long overdue.

Regional Coordinators

There is presently no national policy in the United States on the use of leave for purposes of child care. The Pregnancy Discrimination Act of 1978 requires that employers who provide disability leave or insurance treat pregnancy like any other disability, but provides no guidance for the granting of family or parental leave.

The United States, with its superior technology and highly skilled workforce, remains far less advanced than other less-developed countries in providing for the social welfare of its workforce. The lack of a clear

national policy on parental leave is one example of how we lag behind many other countries. This is particularly true in Europe, where workers are entitled to paid parental leave during which period their jobs, seniority and pension benefits are fully protected.

HR925 extends similar protections to this nation's workforce by guaranteeing that employees utilizing family or medical leave will have their seniority and health benefits protected and will be restored to his or her previous job or equivalent position upon returning to work. We believe that these job protections are critically important elements of this legislation.

The United States Postal Service has a present policy which provides a short period of maternity leave, but the leave - however long its duration - is unpaid unless the worker has sufficient sick or annual leave to cover the period of absence. Postal Service policy is, at best, sporadic on the granting of paternity leave, with the employee limited, generally, to the use of annual (vacation) leave or leave without pay.

APWU has attempted to improve these benefits for postal workers at the bargaining table and will continue these efforts when negotiations on a new national collective bargaining agreement commence April 20th.

In the interim, the enactment of H.R. 925 will fill the gap created by the absence of a national legislative policy on family and medical leave, and we strongly support the passage of this legislation and urge its early enactment.

On behalf of the American Postal Workers Union, I appreciate this opportunity to submit our views on HR 925 and respectfully request that this letter be included in the hearing record for this legislation.

Sincerely yours,

Moe Biller
President

STATEMENT BY

NICHOLAS A. VERREOS, CPIA

PRESIDENT

NATIONAL ASSOCIATION OF PROFESSIONAL INSURANCE AGENTS

The following statement is submitted by the National Association of Professional Insurance Agents (PIA National), for inclusion in the joint hearing record of the Subcommittees on Civil Service and Compensation and Employee Benefits, House Committee on Post Office and Civil Service, on April 2, 1987, on H.R. 925, the "Family and Medical Leave Act of 1987."

PIA National is a non-profit trade association representing more than 42,000 independent property and casualty insurance agents and brokers in all 50 states, the District of Columbia, Puerto Rico, Guam and the U.S Virgin Islands.

The goal of H.R. 925 is an admirable one. There is widespread recognition among employers for the need for programs to meet family and medical needs wherever possible.

The federal government's mandate on basic needs like health, life, disability and Workers Compensation insurance is good public policy. These employer-provided benefits are essential for the financial security for millions of American workers.

PIA National believes that providing tax incentives that make benefit plans attractive to employers and employees help further the laudable public policy goal of increasing the private sector's self-reliance and of decreasing dependence by our citizens on federal programs.

PIA National recognizes the concerns of the proponents of H.R. 925 to ease the strain on American families since the majority of both husband and wife work. We applaud the bill's sponsors' commitment to the improvement of services for children and families. Social policy decisions have to be clarified; the most appropriate need to be resolved.

A recent member survey reveals that a typical PIA member employs 9.4 full-time employees. This is a significant increase. The average before was 5 employees. While one would think that most of our members will not be affected by H.R. 925, which would exempt businesses with less than 15 employees, we will suffer consequences if this legislation is enacted.

Due to present economic conditions and insurance company production requirements, the agency cluster concept is enjoying a rebirth. Some believe that clustering and franchising operations may make a difference in agency survival. An agency cluster is defined as a grouping of agencies for the purpose of consolidating expenses or joining in marketing schemes while maintaining independent identities. While no one can say what effect clustering will have in the marketplace, H.R. 925 will affect many small and medium-sized agencies which are struggling to survive and possibly excel.

Employers only have so many dollars to expend on employee benefits. While family and medical leaves are worthy benefits, mandating them does not increase the employee benefits "pie." They merely divide those "employer benefit dollars" into slimmer pieces in a manner dictated by one or more special interests.

According to the U.S. Chamber of Commerce 1985 Employee Benefits Survey, employee benefits pie accounted for 37.7% of all payroll costs in 1985, up from 18.7% in 1981. Health and life insurance, disability payments accounted for 34%; legally mandated benefits such as workers' compensation at 25%; vacation and sick leave at 25%, and 16% miscellaneous. Therefore, if Congress decides unilaterally to mandate the provisions of H.R. 925, then something else will be cut or terminated to make up the cost. We would imagine that dental, vision, family coverage, day-care, or disability coverage would be prime victims.

PIA National believes this proposed law might have very surprising net effects which hurt the very people it is intended to help . . . especially women in child-bearing years and those such as the over 50 worker who might be expected to have greater illness. The provision of H.R. 925 to guarantee reemployment of a leave-taker to the same or similar position is crippling. It either forces an employer to leave a key position floundering and unmanned . . . or stifles the opportunity of someone to move up and prove themselves . . . or it buries both the leave-taker and the employer in a bitter court battle over what constitutes a "similar" position. None of those are desirable social goals. H.R. 925 would turn benefits that are currently discretionary into "entitlements" subject to litigation -- at a time when we are facing a lawsuit and liability crisis.

PIA National believes that employers and employees, not Congress, are best able to determine wage, benefits and policies most suitable to their individual and mutual needs. The federal government is ill-equipped to respond to the diverse and rapidly changing demands of today's work force. As the demographics of our labor force changes, employers must modify their benefits and policies to attract and retain good employees.

Many business, including PIA National, have responded to the dramatic change in composition of our work force. Today, there are more single-parent families and two-wage earner households. This came about not necessarily by choice, but due to economic needs. To balance the demands of family and workplace, many employers have voluntarily provide maternity leave and child care support. Furthermore, how many employees can afford to be on leave for total of nine months per year without pay?

Expanded mandated coverage, such as family leave or medical leave will stifle a trend toward flexible benefits -- whereby employers offer a variety of benefits from which employees choose. There are some employers providing these benefits which are more generous than those proposed by the legislation.

Finally, PIA National is somewhat confused with the goals of H.R. 925. Although proponents call for unpaid leave now, their ultimate objective is paid leave. We are concerned with the vulnerability for both employers and employees to share the costs of providing family and medical leave. We have noticed the increasing number of participatory employer-provided programs. Employees, including Federal Government employees, are now asked to share the costs of their coverages. Congress, in the past, had attempted to tax employee benefits. Accepting mandatory unpaid leave today would open the door to paid leave tomorrow with serious tax/cost implications. We also find it interesting that Congress has exempted itself from the requirements of H.R. 925.

Expansion of the particular employee benefits of H.R. 925 may cover perceived gaps in protection, but in the long run can create other more fundamental gaps. If employers are faced with the prospect of health care coverage for the extended leave, they will offer either less generous health plans or higher co-payments and deductibles. In the extreme, they might offer no health care coverage. Other employee benefits for all workers may be curtailed to keep overall compensation costs affordable. Employers may only allow other benefits including pension to allow for only a brief portion of this proposed leave. Currently, the federal government itself considers any leave beyond that which an employee has occurred as a break.

Employee benefits cost. There are direct and consequential costs to small business owners. Extended leave period is hard to cope with. Currently, they are accommodated by employers switching around work load, job sharing, hiring temporary help and/or having the affected employee work at home, on weekends, or part-time. Lost productivity and the expense of replacement workers add up to significant employer expenses. Also, the insurance agency business is a specialized field. There is not an abundance or pool of readily-available replacement workers unlike some clerical jobs. The proposed legislation would mandate employers to treat their options with equal force. Employees morale will also suffer as a result of added pressure on the work environment.

In closing, we want to emphasize that as a part of the small business community, PIA National is opposed to federally-mandated family and medical leave legislation. Federally-mandated leave intrudes on the ability of employers to effectively manage their operations. Flexibility can and does work. The reality of our changing society is already forcing small businesses to adapt and is worsening competition. Competition encourages broad adaptation. This works best.

We thank the Subcommittees for this opportunity to comment.

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Family and Medical Leave

FMLA
SUPPORTER
EXCERPTS

STATEMENTS AND TESTIMONY EXCERPTS FROM SUPPORTERS OF FAMILY AND MEDICAL LEAVE

ELEANOR HOLMES NORTON, Professor of Law, Georgetown University Law Center and former Chair of the Equal Employment Opportunity Commission, from testimony delivered before the U.S. House of Representatives Subcommittee on Civil Service, April 2, 1987:

> "This is historic legislation. In a country in which most legislation aids individuals, the Family and Medical Leave Act is notable for the way it strengthens the support system of the family...It is perhaps the first piece of overtly family legislation...This legislation, as much as any you have had before you, makes clear the inescapable link between benefits for working women and benefits for the entire family."

JOHN DENNING, President, American Association of Retired Persons, from testimony delivered before the U.S. House of Representatives, Committee on Education and Labor, February 25, 1987:

> "Caregiving is a family issue but the caregiver is usually a woman. Increasingly, she is an older woman. Caregivers for all family members -- children, grandchildren, spouses and parents -- are usually women, many of them in their fifties and sixties...The lack of job protection for workers who must care for a family member is, in the short run, a financial hardship for the many families needing two incomes. However, the long term economic effects for women are even more devastating.
>
> "Frequent breaks in employment to provide family care, which result in job loss, make it difficult for a woman of any age to earn -- or vest in -- adequate pension benefits and social security income. This problem is compounded by the fact that midlife women face both sex and age discrimination when looking for a new job."

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DONNA LENHOFF, Women's Legal Defense Fund, from testimony delivered before the U.S. House of Representatives Committee on Education and Labor Subcommittees on Labor-Management Relations and Labor Standards, March 5, 1987:

> "Historically, denial or curtailment of women's employment opportunities has been traceable directly to the pervasive presumption that women's place is in the home. This prevailing ideology about women's roles has in turn justified discrimination against women when they do work.
>
> "Sixty percent of mothers with children school-age or younger were in the workforce in March 1984; most women work because of economic necessity. Moreover, an increasing number of working women find themselves caught in a "generational squeeze" -- caring not only for their children but also for aged relatives. Well over 5 million people provide care for their elderly parents alone at any given time; of these, the principle caregivers are adult daughters.
>
> The FMLA's provision of a modest, unpaid, job-guaranteed leave to be used by employees who have serious health conditions or who take time off to care for newborn or newly adopted children or for children or parents who have serious health conditions is a small first step, ..[but]..an essential first step toward meeting the needs and realities of American families today...Moreover, because it makes leaves available to men and to women for <u>all</u> their serious medical needs and a variety of their family needs, it accomplishes all of this in a fashion that neither discriminates against women, nor creates incentives for employers to discriminate against women."

VINCENT R. SOMBROTTO, President, National Association of Letter Carriers, from testimony delivered before the Civil Service Subcommittee and Subcommittee on Compensation and Employee Benefits, April 2, 1987:

> "Employees are asking for the right to raise a family. The fulfillment of that desire will benefit society as a whole because parental leave is a healthy investment in the future of our country -- namely, our children."

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ELEANOR SMEAL, President, National Organization for Women from testimony delivered before the U.S. House of Representatives Committee on Education and Labor Subcommittee on Labor-Management Relations and Subcommittee on Labor Standards, February 25, 1987:

> "This bill is a modern bill. It's a bill that takes into consideration our modern living experiences. When the National Organization for Women was formed twenty years ago, we came out for maternity leave and for a lot of programs enabling women workers to compete without discrimination. This bill goes beyond maternity leave. And we salute it. It is fitting today's family needs...It also..takes into consideration the aging of our population.
>
> "I am a forty-seven year old woman. I am a part of the "sandwich generation." I have two children in college and.. I just recently went through the illness and death of my own mother. I know the difficulties of the women and men my age who are fighting to take care of an elderly parent, yet must maintain themselves in the work force to meet the needs of their own children.
>
> "This is not an abstract problem. I think many of you in Congress who have had these problems identify more with the "sandwich generation" than you do with those who are about to welcome newborns. I am very glad that this bill provides the ability for workers to take leave to care for an elderly parent who is dependent on them. It is humane and it deals with the real needs of our economy and of families today."

JAMES T. BOND, Director, NCJW Center for the Child, National Council of Jewish Women, from testimony delivered before the U.S. Senate Subcommittee on Children, Families, Drugs and Alcoholism, February 19, 1987:

> "In 1950, only 12% of women with children under six years of age were in the paid labor force. In 1986, that proportion had grown to 54%, due largely to the changing economic role of married women within the family...As the number of families in which both parents work, or the only parent works, grows, the adequacy of "family policies and benefits" in the workplace becomes increasingly important to workers when they evaluate employment opportunities and to employers who must compete for working parents in the labor market."

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GERALD W. McENTEE, President, American Federation of State, County and Municipal Employees delivered before the Committee on Labor and Human Resources Subcommittee on Children, Family, Drugs and Alcoholism, April 23, 1987:

> "This legislation is long overdue and represents a modest step toward squaring our public policy with the realities of work and family life in late twentieth century America. It provides an opportunity to move beyond rhetoric to concrete action in support of the family.
>
> "The results of the AFSCME survey clearly show that parental leave is an issue with overwhelming support among the middle class. Fully 67 percent of respondents with household incomes under $20,000 and 72 percent with incomes between $20,000 and $30,000 supported the legislation. The least support, (48 percent in favor) came from people with household incomes above $40,000 -- the only income group that was not strongly in support.
>
> "Our poll results conclusively show that parental leave is not a so-called "Yuppie" issue, supported only by upper income professionals. Rather, it has broadbased support among lower and middle income working people."

JOHN J. SWEENEY, International President of the Service Employees International Union, AFL-CIO from testimony delivered before the Labor-Management Relations Subcommittee of the Education and Labor Committee U.S. House of Representatives, February 25, 1987:

> "It's a national shame that the richest country in the world still has workers who must confront an impossible choice -- the choice between their jobs or care for their newborns or sick family members. For many workers who fall ill there is no choice at all...
>
> "A segment of business groups resistant to change have mounted a frontal attack to defeat H.R.925. My testimony will show their arguments to be without foundation. Specifically, I will make three points:
>
> > First, there is a large grassroots constituency who need and will support this bill. The policies of many employers, particularly those in the large service sector, have simply not kept up with the vastly changing workforce.
> >
> > Second, an unpaid family leave policy is a minimum standard, a right not a "benefit". It will not stifle employers' efforts to provide other family benefits.
> >
> > Third, unpaid parental leave will not bankrupt American businesses. To the contrary, H.R.925 is good business and good for business."

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KAREN NUSSBAUM, 9to5, National Association of Working Women, Service Employees International Union, AFL-CIO, CLC, from testimony delivered before the Subcommittee on Labor-Management Relations U.S. House of Representatives, March 5, 1987:

> "The fundamental facts are these: newborns need their parents, and parents need their jobs. That is why we need this bill.
>
> "What does today's workforce really look like? It's a New Workforce, made up of new people working under a new set of working conditions...women are in it in record numbers. Over half of all women work outside the home, and in 10 years, more women will work than men. By 1990, 91% of women in prime child-bearing years will be working...
>
> "The new workforce is unorganized. Fewer than 20% are in unions, and in the fast-growing clerical and service industries, less than 15% have union representation...the new workforce is characterized by declining pay and benefits, and the need for two-wage families. The startling fact is that family income has gone down even as the number of wage earners per family has gone up over the last ten years. Two-wage families are now the norm, and soon may expect to earn less than one-wage families of the recent past...
>
> "Jane Pauley from the Today Show was on a well-publicized maternity leave last year. She would not have wanted to choose between having her baby and keeping her job. Neither would her secretary, her bank teller, or the nurse on her maternity ward.
>
> This bill means everyone will have the same right to bear children and to support them.

YOLANDA ORTEGA CHRZANOWSKI, Secretary, Local 1923, American Federation of Government Employees, AFL-CIO from testimony delivered before the Civil Service Subcommittee and Compensation and Employee Benefits Subcommittee of the U.S. House of Representatives, April 2, 1987:

> "If this legislation is passed, then the leave period authorized by statute will be clear. The current regulations do not mandate that leave be granted. Our experience has shown that we have to constantly enforce our contract on a case by case basis. We welcome this legislation as it will serve to solidify rights which have previously been secured under our union contracts and will help to ensure that management will apply uniform standards in the grant and denial of leave for maternity purposes."

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EDWARD MURPHY, National Association of Government Employees, from testimony delivered before the House Post Office and Civil Service Committee, Subcommittee on Civil Service and the Subcommittee on Compensation and Employee Benefits, April 2, 1987:

> "One major way in which the federal workforce is distinct from most private sector workforces is that it has a higher percentage of professional, technical and administrative personnel. This is exactly the workforce which the Labor Department projects will be most scarce by the year 2000...If the federal government is to successfully compete for this valuable workforce it must be a leader in providing family leave benefits.
>
> "In NAGE's view family leave policy is so crucial to the government's ability to recruit and retain workers, and ultimately to productivity that it's terms needs to be standardized consistent as a minimum with the terms of HR 925. The government should strive to develop a reputation as an employer which is supportive of families. The broad discretion currently granted to individual supervisors is impeding that end and damaging the recruitment and retention of key personnel in the midst of childbearing years."

BETH MOTEN, National Federation of Federal Employees delivered before the Subcommittee on Civil Service and the Subcommittee on Compensation and Employee Benefits House Committee on Post Office and Civil Service, April 2, 1987:

> "Eighteen weeks of leave without pay for the care of new or seriously ill children, or ill parents, in addition to any sick leave, annual leave, and compensatory time off provided for Federal workers in H.R. 925 would be a dramatic improvement over the present system. Although we would certainly prefer that such leave were paid, we support the bill's requirement for a Commission to study ways to fully or partially replace salaries lost during parental or medical leave.
>
> "We also support the bill's provision to prohibit coercion of an employee requesting either family or temporary medical leave and to permit appeal rights for employees denied such leave...All too often we hear of workers who, forced to undergo major surgery or extended hospitalization, are then threatened with job termination if they do not return to work promptly."

IRENE NATIVIDAD, Chair, National Women's Political Caucus, from a statement delivered at a press conference, January 16, 1987:

> "This bill addresses a major economic issue for women and men. It moves this country towards a national policy on family and medial leave. All western industrialized democracies -- except the U.S. -- provide leave with partial pay for temporary absences for any medical reason.
>
> We urge the 100th Congress to pass all provisions of the Family and Medical Leave Act -- an act that will leave millions of working families across the United States with the flexibility to create a stronger family fabric and ultimately -- a stronger America."

MAUREEN GILLMAN, National Treasury Employees Union, from testimony delivered before the Subcommittee on Civil Service and Subcommittee on Compensation and Employee Benefits, Committee on Post Office and Civil Service, April 2, 1987:

> "The United States stands alone as an industrialized country with no national policy on parental leave...Compared to the national policies of other countries, the Family and Medical Leave Act is a modest measure.
>
> "As the nation's largest employer, the Federal Government should be setting an example for other employers to follow in the area of parental leave, as well as job security during times of serious illness. While the Office of Personnel Management (OPM) provides Federal agencies with guidelines regarding absences for maternity and other reasons, it is up to each agency to create its own policy. The result is an inconsistent, agency by agency approach to the problem of parental and medical leave, with each agency having a substantial amount of administrative discretion.
>
> "As a result of the amount of discretion supervisors have on an employee's decision to take parental or sick leave, the request of one employee is sometimes treated differently from the leave request of another, depending on an employee's relationship with his or her supervisor. A minimum uniform standard, such as that contained in H.R. 925, is needed to ensure the fair treatment of Federal employees concerning something as important as parental and medical leave."

CHERYL MITVALSKY , Association of Junior Leagues, from testimony delivered before the U.S. Senate Subcommittee on Children, Families, Drugs and Alcoholism, February 19, 1987:

> "The Association supports policies which affirm the rights of parents to paid and job protected leaves after childbirth. This could result in less need for infant care facilities and help children get a better physical and emotional start in the first critical months.
>
> "We also strongly support the provision for job-guaranteed parental leaves which will make possible a greater participation in child care by fathers. In addition, we are pleased that the parental leaves will be available to parents who adopt a child or who have seriously ill children."

JUDY FARRELL, Project Coordinator, Economic Policy Council of the United Nations Association of the United States of America delivered before Committee on Post Office and Civil Service U.S, House of Representatives, April 2, 1987:

> "I would like to address the cost issue today and the most frequently asked question about this legislation, "Who is going to pay for it?" First of all, I would like to suggest that we are all going to pay one way or another. The statistics on what is happening to the American family, particularly our nation's children, paint quite a picture: 1 out of 2 marriages ends in divorce, in 1984 single-parent families with children accounted for 26 percent of all family groups, over one fifth of our children live in poverty...
>
> "Managers already deal, on a regular basis, with employees leaving their jobs either temporarily or permanently. In fact, employers do cope with leaves of absence required for jury service and for military leaves for reservists and members of the National Guard...Caring for one's family members, whether young or old, serves an important social function. For when we cannot look after our own families, it is often left to the rest of society to meet their needs.
>
> "Preserving strong families is as important as preserving a strong national defense. Yet, those in the national service of defending our country are provided with job-protected leaves and those in the national service of rearing the next generation are not. For one group, job protection is the law of the land, for the other it is considered too complicated and expensive. I think that family service is as important as military service and critical to our nation's future."

SARAH HARDER, American Association of University Women, from a statement delivered at a press conference, May 7, 1987:

> "One of the most important benefits of the bill is the job protection it provides. Employer fears about massive abuse of leave are unfounded since women work out of economic need...Providing unpaid leave up to 18 weeks to parents whose children are seriously ill, will ultimately benefit employers. Job protection reduces turnover and enhances productivity, and employers retain a loyal, experienced and productive work force."

JAMES STEVER, Vice President -- Human Affairs, U S West, Inc., delivered before the Subcommittee on Labor Standards of the House Committee on Education and Labor concerning H.R.925, February 25, 1987:

> "We commend all of the bill's sponsors for focusing public attention on the relationship between employees' personal and employment responsibilities. We appreciate that child birth or adoption, personal illness or a pressing need to care for close family member, creates strains which have the potential for placing employment in jeopardy.
>
> "We at U S West recognize the need for single-parent and two-earner household employees alike to have workable options when confronted with such problems. U S West has an established record of personnel policies which we believe reflect this understanding. We believe in the value of the individual. Our statement of corporate values says it best: "Each employee is both a respected individual and a valuable corporate resource who must benefit from, and contribute to, the company's success."

EVELYN DUBROW, Vice President and Legislative Director of the International Ladies' Garment Workers' Union, from a statement delivered at a press conference, February 3, 1987:

> "This legislation is another incremental step forward in the development of a national policy based on the dramatic change in the role of women in the workforce and the changing needs of American families...Like the minimum wage and child labor law, this initiative would establish a minimum standard of protection for parents who struggle to meet work and family responsibilities."

RALPH NEAS, Leadership Conference on Civil Rights, from a statement delivered at a press conference, February 3, 1987:

> "The Leadership Conference on Civil Rights has long been committed to the establishment and enforcement of rights in law and the realization of the social and economic conditions that make the fulfillment of those rights possible. By providing job security for temporarily disabled workers and to permit women and men workers to care for dependents, the Family and medical Leave Act would be an essential first step toward addressing employee medical leave needs and the changing realities of society for those who are both workers and responsible family members."

DAVID BLANKENHORN, Executive Director, Institute for American Values, delivered before the Subcommittee on Civil Service and Subcommittee on Compensation and Employee Benefits, U.S. House of Representatives, April 2, 1987:

> "I know of no one -- including the opponents of this bill -- who think that parental leave is a bad idea. Everyone agrees that it's a good idea. With most mothers now in the labor force, including over half of all new mothers, parental leave offers many parents a new opportunity to reach an old-fashioned goal: time at home with young children.
>
> "The disagreements arise over...the cost and over who will bear the cost...One obvious point, ignored by the Chamber, is that most of the costs are borne by the parents themselves...Parental leave extends job security -- specified rights to time off without being fired or demoted -- but it does not provide something for nothing.
>
> "Like minimum wage standards in an earlier generation, parental leave establishes a floor, not a ceiling -- minimum protection for parents who seek, and will pay for, new ways to balance family and work. Setting such basic standards is a fitting and proper role for government.
>
> "Working parents are more than some special interest, pleading for privileges in a zero-sum game. Stronger families benefit the entire society. Raising children is not merely a series of private concerns, but also a social imperative that should be supported by policies such as parental leave. That why a Chamber lobbyist recently complained that 'our usual allies think it's a family issue.' It is."

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Family and Medical Leave

CO-SPONSORS' STATEMENTS

STATEMENTS FROM SENATE AND HOUSE SPONSORS OF THE FAMILY AND MEDICAL LEAVE ACT

REP. WILLIAM L. CLAY, Chairman, Subcommittee on Labor-Management Relations, from a statement delivered February 3, 1987:

> "The fragility of families is blamed for everything from rising crime rates, to illiteracy, to teenage pregnancy to homelessness. There is no shortage of rhetoric about how important it is to "restore the family." What has been lacking is a clear understanding of what is causing families to struggle and a willingness to act on it. We know something about picking up the pieces when families fall apart. We know that it is expensive. We know it is difficult. We know that a lot of what we have tried has not worked.
>
> "The Family and Medical Leave Act is preventive medicine. It goes to the cause of the problem and not its symptoms. If the family is straining because nobody is left at home to care for the newborn or seriously ill child or parent, then a labor standard that can substantially relieve that stress is good and necessary public policy. Giving employees the security of knowing that at times of great family need they can take up to eighteen weeks of family leave or up to twenty-six weeks of medical leave when suffering from a serious health condition, goes to the heart of what is causing families to struggle."

REP. PAT SCHROEDER, Chairwoman, Subcommittee on Civil Service, from a statement delivered September, 1986:

> "We must promote the stability and economic security of families and American workers. By providing an unpaid leave with job protection, this legislation provides families with essential options to meet familial concerns and responsibilities. It establishes leave where none may have existed before, and it guarantees a degree of economic security by ensuring job protection. Most important, it allows families to plan ahead and gives meaning to a government committed to the American family -- a family in which both parents work outside the home.

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"The Parental and Medical Leave Act of 1986 would allow the United States to shake itself of a static model of the American family in which the father works and the mother stays at home. Policymakers and analysts must work to bring public policy into line with the current reality of the 1980's. By creating more flexible work options for America's working parents, we can begin to bridge the gap between work and home. No longer will job or economic security be traded against the needs of the family."

SEN. CHRISTOPHER J. DODD, from a statement delivered before the Subcommittee on Children, Family, Drugs and Alcoholism hearing on Parental and Temporary Medical Leave, April 23, 1987:

"There is not a member of the United States Senate who would disagree with the contention that "as families go, so goes the nation." Not a week goes by without several senators giving speeches on the floor about the importance of promoting the security and stability of American families. Whatever the issue, from improving our students' knowledge of math and science, to competing with Japanese assembly lines, to improving military readiness, we look to families to make a critical difference. And so, strengthening American families becomes a national security issue.

"If we want to help strengthen American families, then we must no longer force parents to choose between caring for a new or a sick child and their jobs. For over a decade, this country has provided job guaranteed leave of four years for anyone who enlists in the armed forces or serves on active duty in the reserves. And if the government so requests, an additional period of one year may be granted for the enlistee or reservist, bringing the total to five years job-protected leave. Business and government thus join together to promote our national defense.

"I would suggest to you this morning that if we really want to lay the groundwork for a strong democracy and national defense, then we must follow the example of the armed forces and establish a national policy on parental leave."

SEN. ARLEN SPECTER, from a statement delivered February 3, 1987:

"Our families are our nation's single most vital resource. Fostering and protecting them in every way possible is the responsibility of government and that is what this bill is all about.

"The children in families that are undergoing economic difficulties do not fare well. Studies show that children of the unemployed are three times more likely to suffer abuse than other children.

"This legislation will help parents during these difficult periods by assuring parents that their jobs will be waiting for them when these crises are over."

Family and Medical Leave

STUDIES
SUMMARY

SUMMARY OF STUDIES ON PARENTAL LEAVE

In general, only a handful of studies have been conducted on family and medical leave policies. Those that do exist show that the leave provided is inadequate and sporadic. For example, in an AFSCME sampling of its contracts, 88% of employees in the study were provided some form of parental leave, whereas a study of the National Council of Jewish Women Center for the Child found that many large companies have no uniform policies and small companies have none at all. The following is a summary of the findings in some of the major studies.

# # #

Bureau of National Affairs, Special Report on Work & Family: A Changing Dynamic, 1986

FINDINGS:

In a 1983 BNA Survey, 90% of the companies responding provided unpaid maternity leave. The most common length of leave was 6 months, although 25% said there was no limit on maternity leave.

40% of the firms responding have leave provisions for men to take time off for the birth of a child;

25% reported providing leave to employees adopting children;

12% limited benefits to those adopting infants or babies under one year of age;

50% allowed use of paid vacation or annual leave;

23% allowed use of personal leave;

77% offered leave without pay.

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CONCLUSIONS:

More employees can be expected to experience difficulties balancing family and work concerns. Parental leave has become a national issue. In general, corporate America has not kept pace with the changing dynamic of work and family.

For more information, contact Michael Levin-Epstein, Burueau of National Affairs, at 202/452-4510.

# # #

American Federation of State, County, and Municipal Employees, Leading The Way: Parental Leave Arrangements in AFSCME Contracts, a 1987 study of all of AFSCME's contracts for 1,000 or more employees. These 85 agreements covered 755,000 employees of state and local governments across the nation.

FINDINGS:

Of these 85 contracts, 72 contained provisions for maternity or parental leave. 49 of these provide the right to leaves for periods of or exceeding 4 months; these 49 agreements covered approximately 646,000 employees, or 86% of the sample. An additional 9 of the contracts do not specify a time period; the study estimates that since a vast majority of the contracts specify 4 or more months, at least 50% of those covered by these 9 contracts would receive at least this amount. This would add 18,300 members to those already covered, for a total of 88% of the sample.

15 of the contracts contained provisions that specifically mentioned paternity leave for periods ranging from 3 months to 3 years.

CONCLUSIONS:

88% of the sample have the right to take unpaid leaves for periods exceeding 18 weeks. Moreover, the majority of these employees (84%) are granted leaves for periods up to or exceeding 6 months. Thus, a bill providing for an 18-week leave without pay and a guaranteed return to work would not levy additional costs on state and local governments.

The role of the leave itself has changed and is no longer a strict disability leave. Many are called "child-rearing" leaves and are not contingent on a woman's disability. Furthermore, in acceptance of the true nature of the leave, state and local employers are increasingly covering males with the same parental leave.

For more information contact Linda Lampkin, AFSCME Research Office, at (202/429-1221) or Amy Mayers, AFSCME Public Affairs Office, at(202-429-1130).

- more -

The National Council of Jewish Women, Center for the Child (1986 National Survey conducted in nearly 100 communities of small, mid-size and large companies and organizations)

FINDINGS:

Even in very large companies leave benefits are not always set by standard policies; among small employers, they hardly ever are.

Large employers are far more likely than small employers to provide eight or more weeks of job protected medical leave for maternity, to make payments toward health insurance coverage during leave, and to provide at least partial wage replacement.

Small employers, however, are just as likely as larger employers to offer some parental leave to working mothers, and they are more likely to allow women to return to their job on a reduced work schedule following childbirth.

For more information, contact James T. Bond, National Council of Jewish Women, at 212/532-1740, ext. 242.

# # #

Catalyst, A 1986 Nationwide Survey of Maternity/Parental Leaves (based on 384 responses to a questionnaire sent to Fortune 1500 companies)

FINDINGS:

Maternity Leave: 51.8% of companies responding offer some unpaid maternity leave for women with a job guarantee. Unpaid leaves vary considerably in length:

7.7% offered 1-2 weeks;
21% offered 1 month;
11.6% offered 2 months;
24.3% offered 3 months;
28.2% offered 4-6 months;
7.2% offered over 6 months.

Continuation of Benefits: Unlike disability policies, many unpaid leave policies require that employees pay all or part of the premiums in order to continue benefits during unpaid leaves.

51.1% of companies continue payment of benefits
34.3% require employees to pay all benefits;
8.2% require employees to pay a greater share of benefits;
6.4% stop benefits during unpaid leave;
1.2% reduce benefits

Job Guarantee: Conditions of reinstatement after unpaid leave usually stipulate the length of leave an employee can take and be reinstated to the same position, a comparable one, or to some other job.

49.7% guarantee comparable job;
40.4% guarantee same job;
9.7% guarantee some job.

Paternity Leave: 37% provide an unpaid job guaranteed leave to men (but only 9 companies reported that men had taken such leave). 62.8% of companies did not consider it appropriate for men to take any kind of parental leave. Of those companies offering paternity leave:

13.2% offered 1-2 weeks;
22.8% offered 1 month;
8.8% offered 2 months;
20.2% offered 3 months;
25.4% offered 4-6 months;
9.6% offered over 6 months.

Disability leave: 95% offer short term disability leave.

38.9% offer full pay;
57.3% offer partial pay;
3.8% are unpaid.
62.7% linked compensation during disability to length of service; 49.2% of companies allow disability leave as soon as employee starts job; 90.2% continue full benefits during disability leave.

Covering Employee Absence: Respondent companies reported that the work of any leave-taker was handled primarily by rerouting it to others in the same department, or by hiring a temporary replacement either from inside or from outside the company. When a temporary replacement for a manager was hired, however, the replacement was generally asked to assume only part of the customary work load. It was also more common with managers to have only urgent work rerouted; the rest was either held or sent to the leave-takers' homes.

Miscellaneous Findings:

27.5% offer adoption benefits (17.5% have formal policies, 10% do so informally);
46.6% do not provide parental leave to part-time workers;
86.4% said that setting up a leave period and arranging to continue benefits was relatively easy;
80% considered it reasonable for women to take time off beyond disability;
65% said they were "open" 3-6 months of unpaid leave beyond disability for new mothers.

For further information, contact Margaret Meiers, Catalyst Career and Family Center, at 212/777-8900.

# # #

Columbia University School of Social Work, Dr. Sheila Kamerman (1981 Survey based on 250 responses to a questionnaire sent to a random sample of 1000 small and medium sized firms)

FINDINGS:

Maternity Leave: 88% of all companies responding provided maternity leave, but only 72% formally guaranteed the same or comparable job and seniority.

Less than 40% of all working women received paid disability leave for 6 to 8 weeks when they gave birth

Amount of leave:

33% provide 2 months or less;
28% provide 3 months;
19% provide 4-6 months;
8% provide over 6 months;
12% grant some leave but on a discretionary basis.

Continuation of Health Benefits:

55% of companies continued to pay health benefits;
44% continued benefits with help of employee contribution;
1% stopped employee health benefits.

- more -

Sick Leave:

66% of respondents provided paid sick leave benefits;
25% permit 2 days or less;
25% permit 3-5 days;
25% permit 6-10 days;
25% permit 12 or more days.

Disability Insurance: 48% provide disability insurance benefits (1/3 of employers with less than 25 employees provided disability insurance)

Amount of Time:
29% provide 2 months or less;
32% provide 3 months;
20% provide 4-6 months;
4% provide over 6 months;
15% vary length of coverage.

Sick Leave and/or Disability Insurance: 28% both benefits; 35% sick leave only; 17% disability insurance only; 20% neither benefit.

Paternity Leave: 25% of firms said they permit men time off for parenting, but generally only for a few days.

For more information, contact Dr. Sheila Kamerman, Columbia University School of Social Work, at 212/280-5449.

-end-

Family and Medical Leave

SUMMARY

SUMMARY OF FAMILY AND MEDICAL LEAVE BILLS

THE PARENTAL AND TEMPORARY MEDICAL LEAVE ACT OF 1987 (S 249)
Introduced on January 6, 1987 by
Christopher Dodd (D-CT) and Arlen Specter (R-PA)

and

THE FAMILY AND MEDICAL LEAVE ACT OF 1987 (HR 925)
Introduced on February 3, 1987 by
William L. Clay (D-MO) and Patricia Schroeder (D-CO)

The Family and Medical Leave Act (sometimes referred to as "Parental Leave") guarantees job security for any worker who needs to take leave from work to care for a newborn, newly adopted or seriously ill child. The Act also guarantees job security, seniority and health benefits for any worker who takes leave to recover from a serious medical condition. Employers must provide unpaid leave, although there is no prohibition against employers providing paid leave with the same job security provision. The House version also includes a family-leave provision for the care of a seriously ill parent.

PROTECTION FOR EMPLOYEES

- At the birth or adoption of a child, employees are guaranteed up to 18 weeks of unpaid leave over a two-year period.

- When a child has a serious health condition, employees are guaranteed up to 18 weeks of unpaid leave. The House version of the Act also includes up to 18 weeks leave for the care of a seriously ill parent.

- In the event of an employee's own serious health condition, she or he is allowed up to 26 weeks unpaid leave (over a 12-month period) when the employee is unable to perform her or his job.

- over -

- Employees who take leaves of absence are guaranteed their existing jobs or similar positions when they return to work.

- Employers are required to maintain existing health insurance coverage for workers.

- Employees may substitute accrued paid vacation, sick or other leave for part of the family and/or medical leave.

PROTECTION FOR EMPLOYERS

- Employers with fewer than 15 people are exempt from this legislation.

- Employees are required by this legislation to provide reasonable notice of anticipated leave and certification of illness.

- Under the House version, employees must schedule their leave to accommodate the employer if the need for leave is foreseeable and it is medically feasible to do so.

- Under the House version, employers may require the substitution of paid vacation, sick or other leave.

ENFORCEMENT

- Both civil and administrative enforcement are provided. Remedies for violation include re-instatement, back-pay and consequential damages.

STUDY

- A study will be undertaken to explore the feasibility of providing paid family and medical leave which would be funded through employer and employee contributions.

Family and Medical Leave

CO-SPONSORS
as of August 1987

U.S. SENATE AND U.S. HOUSE OF REPRESENTATIVES CO-SPONSORS OF

THE PARENTAL AND TEMPORARY MEDICAL LEAVE ACT OF 1987 (S 249)
Introduced on January 6, 1987 by
Christopher Dodd (D-CT) and Arlen Specter (R-PA)

and

THE FAMILY AND MEDICAL LEAVE ACT OF 1987 (HR 925)
Introduced on February 3, 1987 by
William L. Clay (D-MO) and Patricia Schroeder (D-CO)

ARIZONA:
Senator Dennis DeConcini (D)
Rep. Morris K. Udall (D)

CALIFORNIA:
Rep. Howard L. Berman (D)
Rep. Barbara Boxer (D)
Rep. George E. Brown, Jr. (D)
Rep. Tony Coelho (D)
Rep. Ronald V. Dellums (D)
Rep. Julian C. Dixon (D)
Rep. Mervin Dymally (D)
Rep. Don Edwards (D)
Rep. Vic Fazio (D)
Rep. Augustus Hawkins (D)
Rep. Tom Lantos (D)
Rep. Mel Levine (D)
Rep. Matthew Martinez (D)
Rep. Robert Matsui (D)
Rep. George Miller (D)
Rep. Norman Y. Mineta (D)
Rep. Edward R. Roybal (D)
Rep. Fortney H. Stark (D)
Rep. Henry A. Waxman (D)

COLORADO:
Senator Timothy Wirth (D)
Rep. Patricia Schroeder (D)

CONNECTICUT:
Senator Christopher Dodd (D)
Rep. Sam Gejdenson (D)
Rep. Barbara Kennelly (D)
Rep. Bruce Morrison (D)

DELAWARE:
Senator Joseph Biden (D)
Rep. Thomas R. Carper (D)

DISTRICT OF COLUMBIA:
Rep. Walter Fauntroy (D)

FLORIDA:
Rep. Dante B. Fascell (D)
Rep. William Lehman (D)
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GEORGIA:
Rep. John Lewis (D)

HAWAII:
Rep. Daniel K. Akaka (D)

ILLINOIS:
Senator Paul Simon (D)
Rep. Cardiss Collins (D)
Rep. Lane Evans (D)
Rep. Charles Hayes (D)
Rep. Gus Savage (D)
Rep. Sidney Yates (D)

INDIANA:
Rep. Jim Jontz (D)
Rep. Frank McCloskey (D)
Rep. Peter J. Visclosky (D)

- over -

MARYLAND:
Senator Barbara Mikulski (D)
Rep. Steny H. Hoyer (D)
Rep. Kweisi Mfume (D)
Rep. Constance A. Morella (R)

MASSACHUSETTS:
Senator Edward Kennedy (D)
Senator John Kerry (D)
Rep. Chester Atkins (D)
Rep. Silvio O. Conte (R)
Rep. Barney Frank (D)
Rep. Edward J. Markey (D)
Rep. Nicholas Mavroules (D)
Rep. Joe Moakley (D)
Rep. Joseph Kennedy (D)
Rep. Gerry Studds (D)

MICHIGAN:
Rep. David E. Bonior (D)
Rep. John Conyers, Jr. (D)
Rep. George Crockett (D)
Rep. William D. Ford (D)
Rep. Dale E. Kildee (D)
Rep. Sander M. Levin (D)
Rep. Howard Wolpe (D)

MINNESOTA:
Rep. James L. Oberstar (D)
Rep. Martin Olav Sabo (D)
Rep. Gerry Sikorski (D)
Rep. Bruce Vento (D)

MISSOURI:
Rep. William L. Clay (D)
Rep. Richard Gephardt(D)
Rep. Alan Wheat (D)

NEVADA:
Rep. Jim Bilbray (D)

NEW JERSEY:
Rep. James J. Florio (D)
Rep. James J. Howard (D)
Rep. Matthew J. Rinaldo (R)
Rep. Peter Rodino (D)
Rep. Robert A. Roe (D)
Rep. Robert G. Torricelli (D)

NEW YORK:
Senator Daniel P. Moynihan
Rep. Gary Ackerman (D)
Rep. Mario Biaggi (D)
Rep. Thomas J. Downey (D)
Rep. Floyd H. Flake (D)
Rep. Robert Garcia (D)

NEW YORK: (cont'd)
Rep. Benjamin A. Gilman (R)
Rep. Bill Green (R)
Rep. Thomas Manton (D)
Rep. Major Owens (D)
Rep. Charles B. Rangel (D)
Rep. James Scheuer (D)
Rep. Charles E. Schumer (D)
Rep. Louise M. Slaughter (D)
Rep. Steven Solarz (D)
Rep. Edolphus Towns (D)
Rep. Ted Weiss (D)

NORTH CAROLINA:
Rep. Walter Jones (D)

OHIO:
Senator Howard Metzenbaum (D)
Rep. Mary Rose Oakar (D)
Rep. Thomas C. Sawyer (D)
Rep. Louis Stokes (D)
Rep. James Traficant, Jr. (D)

PENNSYLVANIA:
Senator Arlen Specter (R)
Rep. William J. Coyne (D)
Rep. Thomas M. Foglietta (D)
Rep. William H. Gray, III (D)
Rep. Joe Kolter (D)
Rep. Peter H. Kostmayer (D)
Rep. Austin J. Murphy (D)

RHODE ISLAND:
Rep. Fernand St. Germain (D)

TENNESSEE:
Senator Albert Gore, Jr. (D)
Rep. Harold Ford (D)

TEXAS:
Rep. Henry B. Gonzalez (D)
Rep. Mickey Leland (D)

VIRGIN ISLANDS:
Rep. Ron de Lugo (D)

WASHINGTON:
Senator Brock Adams (D)
Rep. Mike Lowry (D)

WEST VIRGINIA:
Rep. Nick Joe Rahall (D)

WISCONSIN:
Rep. Robert W. Kastenmeier (D)
Rep. Jim Moody (D)

Family and Medical Leave

CALENDAR
as of August 1987

1987 CALENDAR ON
FAMILY AND MEDICAL LEAVE

January 6	Senators Christopher Dodd (D-CT) and Arlen Spector (R-PA) introduce the Parental and Medical Leave Act, S. 249. The bill is referred to the Committee on Labor and Human Resources.
February 3	Representatives William L. Clay (D-MO) and Patricia Schroeder (D-CO) introduce the Family and Medical Leave Act, H.R. 925. The bill is referred jointly to the Committee on Education and Labor, which has jurisdiction over private sector and state and local government employees, and the Committee on Post Office and Civil Service, which has jurisdiction over federal government employees.
February 19	Senate Hearing, Subcommittee on Children, Family, Drugs and Alcoholism
February 25	House Hearing, Subcommittee on Labor-Management Relations and Labor Standards
March 5	House Hearing, Subcommittee on Labor Management Relations and Labor Statistics
April 2	House Hearing, Subcommittees on Civil Service and Compensation and Employee Benefits
April 23	Senate Hearing, Subcommittee on Children, Family, Drugs, and Alcoholism
May 5	House Subcommittee on Civil Service unanimously passes Family and Medical Leave Act
May 10	Mother's Day - Great American Mother's Day Write-In

- over -

May 13	House Subcommittee on Labor-Management Relations unanimously passes Family and Medical Leave Act
June 3	House Subcommittee on Compensation and Employee Benefits unanimously passes Family and Medical Leave Act
June 15	Senate Field Hearings on Parental and Medical Leave Act held in Boston, MA.
June 21	Father's Day
July 20	Senate Field Hearings on Parental and Medical Leave Act held in Los Angeles, CA.
August 8 - September 8	Congressional Recess
August 26	Women's Equality Day
September 14	Senate Field Hearings on Parental and Medical Leave Act held in Chicago, IL.
Fall 1987	Senate Field Hearings on Parental and Medical Leave Act held in a Southern city.

Family and Medical Leave

POLLING DATA

From Issue Watch, Opinion Research Corporation Public Opinion Index, Princeton, NJ, May 1987.

"Fathers, as well as mothers, need parental leave upon the birth, adoption, or serious illness of a child."

	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	No Opinion
Total Public	46%	31	10	10	2
Men	42%	32	12	11	3
Women	49%	30	9	10	1
Working Women	63%	22	7	8	0
Support Legislation	51%	33	9	6	1
Oppose Legislation	28%	27	16	26	3

"Because of guaranteeing job security after parental leave, employers are more likely to retain good employees."

	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	No Opinion
Total Public	51%	33	7	6	3
Men	51%	32	8	6	3
Women	52%	33	5	6	4
Working Women	57%	28	5	6	4
Support Legislation	56%	33	6	3	2
Oppose Legislation	37%	32	12	15	4

- over -

"The guarantee of job security after parental leave is a necessity for single parents who must work to support their families."

	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	No Opinion
Total Public	67%	22	4	5	3
Men	60%	26	6	6	2
Women	74%	17	3	4	3
Working Women	75%	13	4	5	3
Support Legislation	74%	21	2	2	1
Oppose Legislation	44%	24	13	14	5

"Because of the large increase of working women, this parental leave legislation is necessary to help provide families with stability and economic security."

	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	No Opinion
Total Public	45%	37	8	5	5
Men	42%	39	8	6	5
Women	48%	34	9	4	5
Working Women	54%	26	9	3	7
Support Legislation	51%	39	5	1	4
Oppose Legislation	22%	30	23	21	5

From NBC News/WSJ National Telephone Poll conducted July 14-15, 1986, published August 26, 1986.

Do you think companies should be required by law to let men and women take up to eighteen weeks of unpaid leave from their work to take care of their seriously ill child, or don't you think so?

Yes	72%
No	19
Women only (Volunteered Only)	1
Not sure	8

Do you think companies should be required by law to let men and women take up to eighteen weeks of unpaid leave from their work after the birth or adoption of their child, or don't you think so?

Yes	52%
No	37
Women only (Volunteered Only)	3
Not sure	8

Family and Medical Leave

Children's Rights and Family Organizations

Child Welfare League
Sr. Policy Analyst: Tom Sheridan
Media Contact: Joyce Johnson
440 First Street, N.W.
Washington, D.C. 20001
202/638-2952

Children's Defense Fund
Dir., Child Care Programs: Helen Blank
Media Contact: Evelyn Lieberman
122 C Street, N.W. #400
Washington, D.C. 20001
202/628-8787

National Center for Clinical Infant Programs
Exec. Director: Eleanor Szanton
Assoc. Director: Emily Schrag
733 15th Street, N.W. #912
Washington, D.C. 20005
202/347-0308

Parents Without Partners
Dir. Pub. Relations: Jeff Jacobs
8807 Colesville Road
Silver Spring, MD 20910
301/588-9354

Civil Rights Organizations

American Civil Liberties Union
Legislative Counsel:
Diann Rust-Tierney
Media Contact: Ari Koprivara
122 Maryland Avenue, N.E.
Washington, D.C. 20002
202/544-1681

Leadership Conference on Civil Rights
Executive Director: Ralph Neas
FMLA Contact: Janet Kohn
2027 Massachusetts Avenue, N.W.
Washington, D.C. 20036
202/667-1780

Disability Rights Organizations

Disability Rights Education & Defense Fund
D.C. Office Director: Pat Wright
1616 P Street, N.W.
Washington, D.C. 20036
202/328-5185

Epilepsy Foundation of America
Assistant Director, Government Affairs:
Liz Savage
4351 Garden City Drive
Landover, MD 20785
301/459-3700

Education Organizations

American Federation of Teachers
Director, Legislative Department:
Gregory Humphrey
Asst. Dir., Leg. Dept.: Elaine Shocas
Dir. of Public Relations: Kate Krell
555 New Jersey Avenue, N.W.
Washington, D.C. 20001
202/879-4450

National Education Association
Legislative Specialist: Joel Packer
Communications Specialist:
Elvira Crocker
1201 16th Street, N.W.
Washington, D.C. 20036
202/833-4000

Labor Organizations

AFL-CIO
Secretary-Treasurer: Thomas Donahue
Legislative Rep.: Jane O'Grady
815 16th Street, N.W.
Washington, D.C. 20006
202/637-5000

American Federation of State,
County & Municipal Employees
Director, Women's Rights: Diana Rock
Media Contact: Phil Sparks
1625 L Street, N.W.
Washington, D.C. 20036
202/452-4800

American Nurses Association
Asst. Dir., Govt. Relations: Jane Pinsky
1101 14th Street, N.W.
Washington, D.C. 20005
202/789-1800

Coal Employment Project
Executive Director: Betty J. Hall
Parental Leave Coordinator:
Cosby Ann Totten
16221 Sunny Knoll Lane
Dumfries, VA 22026
703/670-3416

Communications Workers of America
Executive VP: Barbara Easterling
Legislative Rep.: Leslie Loble
1925 K Street, N.W.
Washington, D.C. 20036
202/728-2300

International Ladies Garment Workers
Union
VP & Legislative Director:
Evelyn Dubrow
815 16th Street, N.W.
Washington, D.C. 20006
202/347-7417

National Federation of Federal
Employees
Legislative Liaison: Beth Moten
Public Relations Director: Red Evans
1016 16th Street, N.W.
Washington, D.C. 20036
202/862-4400

Service Employees International Union
Legislative Rep.: Kathy Skrabut
Media Contact: Denise Mitchell
(202/842-3100)
1313 L Street, N.W.
Washington, D.C. 20005
202/898-3200

United Auto Workers
Assoc. Gen. Counsel: Alan Reuther
1757 N Street, N.W.
Washington, D.C. 20036
202/857-0022

United Food & Commercial Workers
International Union
V.P., Dir. of Women's Affairs:
Pat Scarcelli
Media Contact: Al Zack
1775 K Street, N.W.
Washington, D.C. 20006
202/223-3111

United Mine Workers of America
International President:
Richard L. Trumka
Media Contact: Joseph Corcoran
900 15th Street, N.W.
Washington, D.C. 20005
202/842-7200

Medical Organizations

American Academy of Pediatrics
Chair, Comm. on Early Childhood,
Adoption & Dependent Care:
Dr. George Sterne (504/889-0880)
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202/662-7460

Senior Organizations

American Association of Retired Persons
Leg. Rep.: Michele Pollak
Press Officer: Peggy Hannan
1909 K Street, N.W.
Washington, D.C. 20049
202/728-4729

Older Women's League
Public Policy Dir.: Alice Quinlan
730 11th Street, N.W.
Washington, D.C. 20001
202/783-6686

Religious Organizations

American Jewish Congress
Legal Director: Lois Waldman
Public Relations Dir.: Is Levine
15 E. 84th Street
New York, NY 10028
212/879-4500

National Council of Catholic Women
Program Director: Sally Harrs
1312 Massachusetts Avenue, N.W.
Washington, D.C. 20005
202/638-6050

National Council of Jewish Women
National President: Lenore Feldman
Washington Rep.: Sammie Moshenberg
(202/296-2588)
15 E. 26th Street
New York, NY 10010
212/532-1740

NETWORK: A Catholic Social Justice Lobby
Lobbyist: Catherine Pinkerton
806 Rhode Island Ave., N.E.
Washington, D.C. 20018
202/526-4070

U.S. Catholic Conference
Specialist for Policy: Saron Daly
1312 Massachusetts Ave., NW
Washington, D.C. 20005
202/659-6797

Women's Rights Organizations

American Association of University Women
President: Sarah Harder
Media Contact: Mary Boyette
2401 Virginia Avenue, N.W.
Washington, D.C. 20037
202/785-7700

The Association of Junior Leagues
Public Policy Director: Sally Orr
Washington Rep: Karen Hendricks
(202/393-3364)
Dir. of Communications: Liz Quinlan
825 Third Avenue
New York, NY 10022
212/355-4380 or 393-3364

Coalition of Labor Union Women
Executive Director: Laura Walker
Media Contact: Carl Fillachio
(202/223-8700)
1625 L Street, N.W.
Washington, D.C. 20036
202/429-1179

National Federation of Business & Professional Women's Clubs, Inc.
Executive Director: Linda C. Dorian
Public Information Officer:
Philleppa Mezile
2012 Massachusetts Ave., N.W.
Washington, D.C. 20036
202/293-1100

National Organization for Women
President: Molly Yard
Media Contact: Jeanne Clark
1401 New York Avenue, N.W.
Washington, D.C. 20005
202/347-2279

National Women's Law Center
Managing Attorney: Marcia Greenberger
Policy Analyst: Ann Kolker
1616 P Street, N.W.
Washington, D.C. 20036
202/328-5160

NOW Legal Defense and Education Fund
President: Roxanne Conlin
Executive Director: Marsha Levick
Press Contact: Alisa Shapiro
(202/682-0940)
99 Hudson Street
New York, NY 10013

212/925-6635

National Women's Political Caucus
Chair: Irene Natividad
Director of Press: Jeannine Grenier
1275 K Street, N.W. #750
Washington, D.C. 20005
202/898-1100

9 to 5: National Association of
Working Women
Executive Director: Karen Nussbaum
Associate Director: Deborah Meyer
614 Superior Avenue, N.W.
Cleveland, OH 44113
216/566-1699

Women's Equity Action League
Legislative Director: Pat Reuss
1250 I Street, N.W. #305
Washington, D.C. 20005
202/898-1588

Women's Legal Defense Fund
Executive Director: Judith Lichtman
Associate Director: Donna Lenhoff
Media Contact: Ann Pauley
2000 P Street, N.W., #400
Washington, D.C. 20036
202/887-0364

YWCA of the USA, National Board
Executive Director: Gwendolyn Calvert Baker
Washington Representative: Jo Uehara
(202/628-3636)
726 Broadway
New York, NY 10003
212/614-2700

State and Local Government Groups

National Conference of State Legislatures
FMLA Spokesperson: California Assemblywoman Gwen Moore 213/292-0605
Media Contact: Bill Warren
444 N. Capitol Street, N.W.
Washington, D.C. 20001
202/624-5400

Family and Medical Leave

SUPPORTING GROUPS
as of August, 1987

ORGANIZATIONS ENDORSING THE FAMILY AND MEDICAL LEAVE ACT

AFL-CIO
Alabama Coal Mining Women's Support Team
Amalgamated Clothing and Textile Workers
Amalgamated Transit Union
Ambulatory Pediatric Association
American Academy of Child and Adolescent Psychiatry
American Adoption Congress
American Association for International Aging
American Association of Retired Persons
American Association of University Women
American Association on Mental Deficiency
American Civil Liberties Union
American Federation of Government Employees
American Federation of State, County, and Municipal Employees
American Federation of Teachers
American Home Economics Association
American Jewish Committee
American Jewish Congress
American Medical Women's Association
American Nurses Association
American Occupational Therapy Association
American Postal Workers Union
American Psychological Association
American Society on Aging
Americans for Democratic Action
Asociacion Nacional Pro Personas Mayores
Association for Children and Adults with Learning Disabilities
Association for Gerontology in Higher Education
Association for Retarded Citizens
Association of Flight Attendants
Association of Junior Leagues
Association of Women Psychiatrists
B'nai B'rith
Catholic Golden Age
Center for Law and Social Policy
Child Welfare League
Children's Defense Fund
Church of the Bretheren

- more -

Citizen Action League
Coal Employment Project
Coalition of Labor Union Women
Colorado Coal Mining Women's Support Team
Colorado Psychiatric Association
Committee for Children
Committee of Interns and Residents
Communication Workers of America
Department of Occupational Safety, AFL-CIO
Disability Rights Education and Defense Fund, Inc.
Eastern Kentucky Coal Mining Women's Support Team
Economic Policy Council, United Nations Associations
Epilepsy Foundation of America
Families for Private Adoption
Fathering Support Services
Federally Employed Women
Feminists for Life of America
Food and Allied Service Trades Department, AFL-CIO
Gray Panthers
Hadassah
Highlander Research and Education Center
Illinois Coal Mining Women's Support Group
Indiana Coal Mining Women's Support Team
Industrial Union Department, AFL-CIO
Institute for Child Mental Health
International Brotherhood of Teamsters
International Ladies Garment Workers Union
International Union of Electrical Workers
Jewish Labor Committee
Lady Miners of Utah
Leadership Conference on Civil Rights
Leadership Council of Aging Organizations
Longshoremen's and Warehouseman's Union, International
Maritime Trades Union, AFL-CIO
Men's Rights, Inc.
Mennonite Central Committee, U.S. Peace Section, Washington, D.C.
Mental Health Law Project
Mexican American Business and Professional Women's Clubs of
San Antonio
Mothers Matter
NA'AMAT USA
NAACOG: Nurses Association of the American College of
Obstetricians and Gynecologists
National Alliance for the Mentally Ill
National Association of Area Agencies on Aging
National Association of Developmental Disability Councils
National Association of Foster Grandparents Program Directors
National Association of Letter Carriers
National Association of Nature People
National Association of Meal Programs
National Association of Older American Volunteer Program
Directors

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National Association of RSVP Directors, Inc.
National Association of Senior Companion Project Directors
National Association of Social Workers,Inc.
National Association of State Units on Aging
National Association of Protection and Advocacy Systems
National Caucus and Center on Black Aged, Inc.
National Coalition of 100 Black Women, Capitol Hill Chapter
National Conference of State Legislators
National Conference of Women's Bar Associations
National Congress for Men
National Council for Research on Women
National Council of Catholic Women
National Council of Jewish Women
National Council of Senior Citizens
National Council on Family Relations
National Council on the Aging
National Down's Syndrome Congress
National Education Association
National Federation of Business and Professional Women's Clubs
National Federation of Federal Employees
National Federation of Housestaff Employees
National Federation of Housestaff Organization
National Interfaith Coalition on Aging
National Jewish Community Relations Advisory Council
National Mental Health Associations
National Organization for Women
National Perinatal Association
National Society of Children and Adults with Autism
National Treasury Employees Union
National Union of Hospital and Health Care Employees
National Woman's Party
National Women's Health Network
National Women's Law Center
National Women's Political Caucus
NETWORK: A Catholic Social Justice Lobby
New Jersey Coalition for Parental and Disability Leave
Newspaper Guild
New Ways to Work
New York Committee for Occupational Safety and Health
9 to 5 National Association of Working Women
Northeastern Gerontological Society
Northern West Virginia Coal Mining Women's Support Team
Northwest Women's Law Center
NOW Legal Defense and Education Fund
Office and Professional Employees International Union
Older Women's League
Parents Without Partners
Pennsylvania Coal Mining Women's Support Team
Pension Rights Center
Public Employees Department, AFL-CIO
Retired Members Department/United Auto Workers
San Francisco Board of Supervisors

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Service Employees International Union
Southeast Women's Employment Coalition
Southern West Virginia Women Miner's Support Team
Southwestern Virginia Coal Mining Women's Support Team
Texas Coalition of Nontraditional Professions
Union of American Hebrew Congregations
Union of Orthodox Jewish Congregation of America
United Auto Workers
United Cerebral Palsy Associations, Inc.
United Food & Commercial Workers International Union
United Mine Workers of America
United States Catholic Conference
United Steelworkers of America
United Synagogue of America
United Synagogue-Women's League for Conservative Judaism
Villers Advocacy Associates
Washington Council of Lawyers
Wider Opportunities for Women, Inc.
Women Employed
Women in Communication
Women on the Job
Women's American ORT
Women's Bar Association of the District of Columbia
Women's City Club of New York
Women's Equity Action League
Women's Equity Action League of Ohio
Women's Legal Defense Fund
YWCA of the USA, National Board

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Family and Medical Leave

FAMILY AND MEDICAL LEAVE

AN OVERVIEW

The United States is in the midst of a demographic revolution that has altered the American workforce as well as the American family. This change holds significant implications for both American public policy and for every individual.

The once-typical American family, where the father worked for pay and the mother stayed at home with the children, is vanishing. Today, fewer than 10 percent of the population fits the "classic" family-model headed by a single male breadwinner. The majority of American families are comprised of two-earner couples working outside the home. In addition, an estimated 8.7 million women are raising 16 million children without husbands present in the home.

Women today are the fastest growing segment of the labor market, and the majority of women hold paid jobs because of economic necessity. It now takes most couples two incomes to maintain the standard of living their parents enjoyed with only one income.

Between 1950 and 1985, the number of women in the labor force increased by 178 percent, while the number of men rose by only 47 percent. Women make up 44% of the workforce and by 1990 are expected to make up one-half of the workforce. Almost half of all mothers with children under the age of one are working outside the home. In addition to child care responsibilities, more than 2.2 million family members (mostly women) provide unpaid care for parents and other relatives who have serious health conditions.

These drastic changes in the composition of the workforce over the past thirty years have placed a tremendous strain on families. Furthermore, employees can be expected to experience more difficulties balancing family and work concerns in the future. More than 80 percent of women in the workforce are in their prime childbearing years; 93 percent of these women will become pregnant at some point in their working lives.

Yet, in spite of these dramatic shifts, employers have generally failed to adapt their family and medical leave policies to the

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changing needs of their workers. Employed women have borne a disproportionate share of the burden as they have struggled to fulfill both their traditional family responsibilities and maintain paid jobs.

Existing labor standards are inadequate to meet the needs of today's working parents. Currently, no federal policy exists which addresses the dramatic demographic changes in today's workplace. This is especially true with regard to parental and dependent care leave. A handful of states require some job guarantees for pregnancy, parental and general medical leave; however, these laws are both inconsistent from one state to the next and frequently inadequate.

Current federal law only requires maternity-related medical leave to be treated in the same way as other temporary disability leave, but too many employers do not provide leave or provide short-term unpaid leave. Too often employees are dismissed when they are unable to work due to medical conditions, including pregnancy and childbirth.

According to one national survey, just half of large employers offer unpaid job-protected parental leave for women after childbirth. Paternity leave allowed by large employers is generally limited to a few days, according to another study.

The Family and Medical Leave Act is needed to respond to the current ad hoc policies of federal and state parental leave legislation, and to address the new realities of working parents. Both mothers and fathers will be able to take a period of leave from their jobs in order to participate in the early care of newborn or newly-adopted children or to attend to a son, daughter, mother, or father with a serious health condition.

The Family and Medical Leave Act will provide job protection for all workers, assuring them that if they suffer a sudden illness or if they have a temporarily disabling accident, they will be able to return to their jobs when they have recuperated.

The United States is alone among advanced industrialized countries in the lack of development of parental leave benefits. The U.S. still provides no national health insurance, minimum maternity or parenting benefits, or job-protected leaves at the time of childbirth. Over 100 countries, including all the industrialized nations, guarantee workers some form of job-protected, partially-paid maternity-related benefits. By 1986, nine European Community countries provided paid parental leave to both men and women. These societies define pregnancy and maternity as a societal as well as an individual risk resulting in temporary loss of income and, therefore, provide such benefits as a matter of national legislation through their social insurance systems.

Strong families are the foundation for a strong, productive and competitive country. The Family and Medical Leave Act is a positive response to the new social and economic realities reflecting family policy that seeks to preserve and reinforce a wide range of family patterns present in our society.

Family and Medical Leave

CASE STUDY

CASE STUDY - FAMILY AND MEDICAL LEAVE

The Boggs Family
Myrtle Beach, South Carolina

My name is David Boggs and I live in Myrtle Beach, South Carolina with my wife Nettie, and our three children, Mary Lynn, Davey, and Jonathan. I am not a professional person. I am an ordinary salesman with a book distributing company. My words may not be as eloquent as some who have testified but they are from the heart and I thank you for this opportunity to speak to you.

I would like to say that neither my wife or myself have ever lost our job because of having to be out with our son Jonathan. However, there have been many times when I have not gone to the hospital with Nettie and Jonathan because I was afraid I might lose my job.

One time, when Jonathan was very small and we were still not sure if he was going to live or not, my employer said to me, "If you want a day off, don't use your son for an excuse." Now people that hurts, deep down inside that hurts!

It is bad enough to be at the hospital worrying about your child without having to worry about a job when you get home.

Nettie had to give up a better paying job once because she was told that even though she was not there she would still be responsible if anything went wrong. She just could not take the strain of wondering what was going on while she was gone.

Just a few weeks ago one of our friend's daughter-in-law did lose her job because of having to be out with a sick son. It was not a minor ailment; he had just been diagnosed as having a very serious kidney disease. When she got back home from the Medical University of South Carolina she was told she no longer had a job. Needless to say, she was devastated.

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Jonathan has been put to sleep between 140 and 150 times. (After that many times you lose count.) Each time the anesthesiologist says to you, "You know now that there is a possibility that he won't wake up." At these times, it is very important that the family be together. I sure would hate to have to call Nettie to tell her that he did not wake up or, on the other hand, for her to have to call me.

If your children have not had to be in the hospital, consider yourself blessed. If they have, I am sure you feel a kinship with us. We ask that you consider this bill with much thought and soul searching for the benefit of those of us who have been given special children to care for.

My wife and I thank you for this opportunity to share our feelings with you.

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From testimony before the Senate Subcommittee on Children, Families, Drugs and Alcoholism hearings on Parental and Temporary Medical Leave, S.249, April 23, 1987.

Family and Medical Leave

CASE STUDY

CASE STUDY - FAMILY AND MEDICAL LEAVE

The Wilt Family
York, Pennsylvania

My name is David Wilt. I live in York, Pennsylvania with my wife Sharon and our two children, Nicky and Sarah.

My wife and I could not have children. In January 1986 we adopted our son Nicky. Nicky was born with Cornelia DeLange Syndrome, a birth defect which affects only 1 in 100,000 births. Nicky weighed two pounds at birth. He has only one finger on one hand and three fingers on the other. He is missing a bone in his lower arm. In addition, he has other severe orthopedic and digestive problems. We were so in love with Nicky that we decided to adopt a second child. We adopted Sarah in early September 1986. Sarah has Downs Syndrome.

I am here today to tell you my story so that you will understand why the Family and Medical Leave Act is so important to families like mine. I was employed as a baker for Mr. Donut in York. I enjoyed my job and often received praise from my boss. My wife and I had a wonderful life. Everything was great until one day when my world collapsed.

During a routine exam when Sarah was two months old, the doctor discovered a faint heart murmur and suggested that we see a cardiologist. After an EKG and an Ultrasound, the cardiologist told us that this was indeed very serious and that Sarah would need bypass surgery. He told us that this was a life and death situation and that it needed immediate attention. The catheterization showed that Sarah needed bypass surgery. The only question remaining was who is the best possible surgeon?

Up until this point we were able to schedule Sarah's doctors appointments so that I didn't have to miss any time from work. As soon as the cardiologist told us that Sarah needed surgery I went to my boss, the owner of the Mr. Donut, and explained that my daughter needed an operation soon, but we were not sure where. He assured me that it was no problem and that I should let him know as soon as possible.

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The cardiologist told us that in his medical opinion the best surgeons and facilities for this delicate and dangerous operation were at Children's Hospital in Washington, D.C., over a hundred miles away. The operation was scheduled for the following week.

I immediately went to my boss and told him that the surgery was schedule in D.C. the following week and that we had to bring Sarah to the hospital the day before the operation. He said that was fine.

When the next work schedule was posted I discovered that I had been scheduled to work the night before Sarah was to be admitted to the hospital. I went to my boss and reminded him that I needed that night off to bring Sarah to Washington. He assured me that there was no problem.

The day before Sarah was to enter the hospital, as I was finishing my second shift my boss came up to me and asked, "Where are you going?" I told him I was leaving to take Sarah to Washington for her surgery.

Do you know what he said to me? "If you don't work tonight, you're fired." I couldn't believe it. What was I to do? I did the only thing a parent could do.

I left. I drove home. I picked up my wife and children, drove to Philadelphia to drop off Nicky at my parent's house, and then drove to Washington that night. Children's Hospital had arranged for my wife and I to stay at the Ronald McDonald House.

Sarah survived the surgery. However, this operation only gave her additional time until she is older and strong enough to have the surgery she needs to live.

I have learned a lot from this experience. I was fired from my job. I looked for another job and couldn't find one. My wife now works full time at the local housing authority. I stay at home and take care of the kids.

I learned how necessary the job protection in the Family and Medical Leave Act is. I hope you remember that I am not alone. Without this legislation, thousands of parents will be forced to choose between their children and their jobs. I am no hero. I am just a working man who was fired because he loved his kids.

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From testimony before the U.S. House of Representatives Committee on Education and Labor, Subcommittee on Labor-Management Relations and the Subcommittee on Labor Standards hearings on the Family and Medical Leave Act, H.R. 925, March 5, 1987.

Family and Medical Leave

CASE STUDY

CASE STUDY - FAMILY AND MEDICAL LEAVE

Gene Boyer, Small Businesswoman
Beaver Dam, Wisconsin

My name is Gene Boyer. I am a resident of Beaver Dam, Wisconsin, a city of 14,000. I have a lifetime of experience in small business...For 32 years...with my husband, I conducted a highly successful retail furniture operation in Beaver Dam with branch stores in other Wisconsin cities. Since selling our business; I have begun a new career as a consultant and trainer to other small businesses.

During the years when we operated the furniture business we employed approximately 15-20 people on the average...[placing]... us just within the coverage of the Family and Medical Leave Act, as proposed. Even though no such legislation existed at the time, we practiced personnel policies which were at least as beneficial as the [bill's] proposed standards...We allowed employees to take extended leaves...for their own health needs or family needs whenever necessary and with complete assurance their jobs would be waiting when they were able to return to work.

While these leaves were generally considered unpaid, we did compensate for any accumulated vacation ...or leave...time the employee had earned. For key personnel, we carried temporary disability insurance. In several instances, we made up the difference between the insurance payments and full salary for a specified length of time. In other instances, we made advances against future earnings...

In 32 years, we had only two employees who took maternity leave, although at least one-third of our workers were female and almost all were of child-bearing age....in both instances, the employee returned to work, one on a full-time basis, the other part-time. The full-time returnee was a bookkeeper. During her extended absence, we shifted her duties to other workers temporarily. While other employees were paid for these extra hours, I am certain the increase in their wages did not equal the book-keeper's full-time salary, which was <u>not</u> being paid during her absence. If there would have been a temporary-help-employment agency in our community, I would have used it. In the other situation, the employee was a full-time professional, an interior

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designer. We truly could not do without her. We hired another professional to take her place, with the understanding the job might be a temporary one. As it turned out...the first professional wanted to work part-time only, and the replacement worker was also eager to work only part-time. We ended up with the two women sharing one full-time job.

The treatment accorded the women absent on maternity leave was not unlike our policy toward a male employee who, due to a gall bladder operation, was absent for several months and was able to work only part-time for several more months. We could less afford to lose these employees than we could to provide them with these minimal job benefits.

The cost of training, orienting and acclimating new employees is by far the greatest cost the small business owner bears in maintaining her, or his, workforce. Now...wearing the hat of my new career as a consultant and trainer to entrepreneurs,...many of the business owners in our country are women. Among the identifiable barriers they face is a lack of familial support systems. They are often caught up in dual-role conflicts, trying to carry on all the demanding activities of the business owner while being the source of nurturance for the whole family.

When a woman is absent from her business, it may be far more disastrous than when she is absent from a job. With enlightened family leave policies, it might be the husband of the woman business owner who takes a leave from <u>his</u> job to take care of the family obligations...without having to give up his job forever. The world today has many new configurations of families. We have many two-income families sharing the home-making and the family-nurturing functions. We need national policies that reflect a true pro-family philosophy that seeks to preserve and reinforce a wide range of family patterns.

I am a businesswoman, yes. I am out to make a profit. But, I am also a human being. I travel this brief span of life in company with other human beings who happen to be workers. As I see it, we are all in this together. We need to develop public policies that neither punish nor reward any of us in the extreme.

Women business owners have shown themselves to be truly equal opportunity employers...[employing] more women, youth, elderly and handicapped people, and they practice empathetic management styles responsive to human concerns. In time, women business owners will come to see the wisdom of the policies contained in the proposed Family and Medical Leave Act...and they will help to sell the advantages of those policies to their male counterparts. At least, that is what I intend to do.

# # #

From testimony before the House Committee on Education and Labor, Subcommittee on Labor-Management Relations and the Subcommittee on Labor Standards, hearings on the Family and Medical Leave Act, H.R. 925, February 25, 1987.

Family and Medical Leave

CASE STUDY

CASE STUDY - FAMILY AND MEDICAL LEAVE

The Weeks Family
Washington, DC

My name in James Weeks. I am employed by the United Mine Workers of America in Washington D.C. I am the father of two children - a boy age five and a girl, two.

When our daughter was born, I was granted three months parental leave. For the first month of this leave, my health insurance coverage was provided by the Mine Workers. The remainder was paid for by me at a modest cost of $234.00, which continued the same coverage we had been receiving. During my absence, many of my ordinary duties were taken up by other employees at the Union but there were some that I had to attend to myself. For this work, I was paid at an hourly rate. Doing this work was possible because I could take it home (other workers might no be able to do so) and relatively easy because our daughter is healthy and easy-going. Altogether, I worked about twenty hours during my leave.

The principal reason for taking this leave was practical. Both my wife and I have professional jobs. During the pregnancy, my wife had to remain in bed for about five weeks. Although she was able to do some work at home, her being in bed severely constrained her ability to keep up with her work load.

When our daughter was born, my wife took a one month leave. At this point, not only was she behind in her work, she was also facing a series of deadlines. In her case, she had already had to take considerable time away from her work due to factors beyond her control. Since it was easier for me to take some time off, I spent the next three months with our daughter at home. For us, three months was sufficient because we were able to hire a highly qualified person to look after our two children. For others, six or more months may be necessary to arrange satis-

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factory infant day care due to the expense and long waiting time. I strongly support the bill that you are considering. It would provide families with opportunities to provide for their children and it would, in my opinion, reduce incentives to discriminate against women of child-bearing age. You already know the growing number of two wage-earner families, and the growing number of single parents.

The traditional family -- with the father the sole source of income and the mother the sole caretaker for children -- is no longer the family for the majority of Americans. These jobs are now shared or they are done by single parents, most of whom are women. This change has come about because of women's drive for equality and out of sheer economic necessity. The issue is whether social policy will keep pace with social change and whether we as a society are going to support families as they are. For families in all their forms, parental leave with job protection is a minimum essential support against unnecessary job loss.

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From testimony before the Senate Subcommittee on Children, Families, Drugs and Alcoholism, hearings on "Parental and Temporary Medical Leave Act, S. 249, February 19, 1987.

Family and Medical Leave

CASE STUDY - FAMILY AND MEDICAL LEAVE

The O'Connell Family
Branford, Connecticut

My name is Jack O'Connell, head chef at the Connecticut Hospice. I am the father of three children ages 16 through 19. My wife Sheila and I are both employed full-time. Through the years life has prepared us for illnesses and small tragedies that children experience, but nothing prepared us for the tragedy that happened to our middle child, Jodie.

On June 22, 1985 working at her after school job, she had her arm pulled into a meat grinder which resulted in the loss of her right arm from the elbow down. Because of this, I am here today to give you my views of what a working parent goes through when their child has a sudden and serious injury, and why time off from a job is crucial for parents to help a child and family recover.

Sheila and I had to figure out a way we could both stay at the hospital to support our child during this tragic time in her life and still maintain a family relationship with our other two children at home while keeping our full-time jobs. We stayed at the hospital 24 hours a day for the first week. The doctors in charge encouraged Jodie to see a social worker in order to help her deal with the emotional loss of a limb. This did not work out well with Jodie. With tears streaming down her face, Jodie said "I don't want an outsider to help me. I want you, my Mom and Dad. No one understands me more than you do."

I work at the Connecticut Hospice and was able to take as much time off as necessary to care for my daughter at this crucial time, which was approximately one month. Due to employees on vacation my wife was not able to take time off. Hospice care is based on caring and support for terminally ill patients and their families. The care and support is also extended to us, the caregivers. Hospice informed me that I could take as much time as was needed to be with Jodie and not to worry about job

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security. My supervisor informed me that she had spoken with the president, and Hospice was willing to let me use my sick time so that I would not get into a financial difficulty.

After the initial month, I was out of work one given day a week for almost six months taking Jodie to Newington Children's Hospital for therapy and the fitting of a prosthesis. She also had to be trained to use this just as a young child would have to be taught how to eat and lift things, not to mention the emotional stabilizing which had to be in place every day. With the understanding and support from the Hospice, I was able to work flexible hours. Knowing that I had job security gave me a great deal of peace of mind at this very difficult time. This helped more than anyone imagined.

After going through this tragedy and thinking back, I knew then, and I know now for sure, that I could not have been able to perform my job at that time in my life. People should understand that when there is a tragedy in a family, like a serious illness, etc. a person cannot concentrate and perform what he or she is trained to do under these circumstances. Without this time off, Jodie may never have overcome the depression and fright of going through life with only one arm.

Because of the gracious support and understanding of the Hospice, I was able to care for my child, Jodie, and give her the security, love and attention she needed to help her feel whole once again!

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From testimony before the Senate Subcommittee on Children, Families, Drugs and Alcoholism, hearings on Parental and Temporary Medical Leave Act, S. 249, April 23, 1987.

Family and Medical Leave

CASE STUDY - FAMILY AND MEDICAL LEAVE

The Hurst Family
Newark, Delaware

My name is Tina Hurst. I live in Newark, Delaware with my husband and two children, Heather, age 8 and Ian, age 3. I am here today representing several members of the Consortium for Citizens with Developmental Disabilities, a coalition of national disability organizations...The Family and Medical Leave Act is important legislation for all parents of minor and adult children with disabilities....One never thinks about the need for the minimum requirements provided in this legislation until something happens to your family.

We are an example of the average American family. We needed two incomes to support ourselves and our two children. In May 1985, I started working at a large pharmaceutical company...as a handpacker ...the company's leave policy allowed for three days off, unpaid, every six months.

Nearly a year later...my three year old son Ian had his first seizure. ...We rushed him to the hospital where he was diagnosed with pneumonia and high fever which set off the initial seizure. ...He was hospitalized for four days. My husband and I alternated taking time off from work to be with him. I was working the third shift...so I was able to be at the hospital during the day, but I still missed two nights of work.... The doctors ...advised us to stay with him at all times in the hospital.... In late August Ian had a very serious asthma attack...and was admitted to the hospital in serious condition. Once again I missed two nights of work to be with him. When I returned to work the next day, my supervisor warned me that I had taken more than the three days of the unpaid sick leave allowed and that I should watch my absenteeism.

In September Ian had a severe allergic reaction to the drug he was taking for his epilepsy. He continued to have...seizures ...In mid-October Ian was again hospitalized for high fever and pneumonia. I missed two nights of work. Then my supervisor and personnel manager...said that if I missed one more night of work in the next six months they would fire me or I would be asked to

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resign. I explained...Ian's condition...and asked if I could have a leave of absence, rather than being fired. They said no but assured me that...they would rehire me with seniority if my son's health improved.

...I did not feel I had any other option but to resign -- which I did. In late November Ian's seizures came under control. I called the personnel manager [who]...told me that they were not hiring and [to] check back in March. I was shocked. I expected them to keep the promise they made to me when I resigned. I lost my job because I was forced to choose between caring for my seriously ill child or working to help support my family.

Mr. Chairman, I missed only six nights of work in seven months... And...the company [was] well aware that each of my absences was due to my son's hospitalizations. This is an emotionally stressful period for me and my family... Losing my job has made this difficult experience even harder... we still ...need my income to support our children and help take care of our medical expenses.

Unfortunately, my story is not unique. Many families of children with epilepsy go through what we did. Many young children newly diagnosed as having epilepsy have uncontrolled seizures for weeks until proper medication and dosage are found. Parents of children with other disabilities have similar problems....Many of these families are forced to consider institutionalization or public assistance for lack of resources and support systems.

Mr. Chairman, I don't know if you realize that the income of a family with a member who has a disability is nearly three times more likely to fall below the federally defined poverty level than the average family's....Although the leave contained in the Family and Medical Leave Act is unpaid leave, it will aid parents in keeping their family unit together by maintaining their job security and peace of mind...

Mr. Chairman, and members of the Committee...[t]he Family and Medical Leave Act promotes a uniform, reasonable leave policy which allows for leave vital to the care of a dependent daughter or son with a disability. The Family and Medical Leave Act also recognizes important demographic changes in American society. In most families, both parents now work. Today the overwhelming majority of families of children with disabilities keep their children at home...In addition, children who remain in the family environment with support services are far more likely to learn the skill necessary for independence and a fulfilling life in the community.

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From testimony before the House Committee on Education and Labor, Subcommitte on Labor-Management Relations and Subcommittee on Labor Standards, hearings on the Family and Medical Lneave Act H.R. 925, February 25, 1987.

Family and Medical Leave

CASE STUDY

CASE STUDY - FAMILY AND MEDICAL LEAVE

The Freidman Family
Brooklyn, New York

My name is Lisa Freidman and I am a mother of two sons, two and a half years old Joshua and 3 month old Nicholas. I have taught in the New York City Schools for almost two years....in the same classroom and to the same kids [at P.S. 8 in Brooklyn]....I was classified as a Temporary Per Diem teacher (TPD). This means that I had not taken the regular licensing test given by the New York City School System....It is important to point out that TPD teachers receive the same salary and benefits as licensed teachers. We are expected to and we do the same job. The only difference between us then is not skill but access to the licensing test.

Though there is no difference in skill or commitment between TPD teachers and licensed teachers there is certainly a difference between us when it comes to parental leave. I am a member of the American Federation of Teachers [which] has two contracts with the school system, one for the licensed teachers and one for the TPD teachers. The AFT's TPD contract has no provision for maternity or parental leave. If a TPD teacher is out of the school system for 15 days...we lose all seniority.

I became pregnant in February of 1986. I told the principal of my school in May. I knew that I could not get my job back because of the TPD contract. But...in New York City schools the principal of a building has a lot of autonomy; often they will supercede a union contract....it might be possible...to arrange with my principal to get my job back. ...I told her I would work right up until the birth of my child and would come back the beginning of second semester, February 2, 1987. My principal agreed to this time table and told me I could have my job back. In September I returned to school, very pregnant for the first semester. There was never any question that I would be returning after my leave....The principal of the school came to my house for my son's Bris. At that party she asked me when would I be coming back. On December 19, the Friday before Christmas break I went to the school to visit and pick up some materials from my classroom...I dropped by to see the principal to ask her if it would be possible for me to return to my class on January 15.

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...She told me I could not return then because she had promised my substitute that he would be working until February 2. I decided that since it was only a matter of two weeks, that would be fine.

One week and a half before I was to go back...the acting assistant principal...asked me if I would be willing to substitute for an English teacher who had jury duty....I would only be getting a substitute teacher's pay. I worked that week as a substitute. At the end of the week the acting assistant principal informed me that I might have to work another week...I would still be paid as a substitute until I got back at my regular slot. I began to get panicky. I had arranged for a sitter to come into my home... and had put my 2 and 1/2 year old in nursery school. I could not afford to pay for this arrangement if I was going to be paid [as a sub]. I went to the acting assistant principal and told her...I wanted to go back to my regular slot...the acting assistant principal told me that she would not fight my battles. I tried to contact the principal but I was unable to reach her.

The acting assistant principal called to tell me that she had told the principal that I was upset. She told me that the principal had responded "she has no reason to be upset. I don't have to keep her in the school. Tell her to get a job in another school." I was so upset that I again called the principal.... I told her "I understand you want me to stay on as a sub." She responded "No, I told you to find a job in another school. The acting assistant principal told me you were insubordinate. I cannot have insubordinate teachers in my school." I told her that this was not true and that I did not understand what was going on. The principal told me that while I was home taking care of my baby, she would not expect me to know what was going on in the school.

I went back to the acting assistant principal to again talk out my situation. She told me...my replacement was doing a "reasonably good" job and that there was some order in the classroom. She said there did not seem to be any commitment from the principal therefore there is no reason for me to come back. I went to the AFT, to the ACLU and to the Human Rights Commission of New York...None of them could help me because TPD teachers have no right to take maternity leave. I then filed a claim for disability benefits under my state program.... but I was required to get my principal's signature. She refused to sign the papers because she claimed I had failed to report that I had worked for four days.

Since February I have been unable to find a regular teaching job. I can get substitute work, but the money I would earn is not enough...I...hope I can find a [regular] job I will love as much as I loved my job, the kids and my fellow teachers at P.S. 8.

# # #

From testimony before the House Committee on Education and Labor, Subcommittee on Labor-Management Relations and the Subcommittee on Labor Standards, hearings on the Family and Medical Leave Act, H.R. 925, February 25, 1987.

Family and Medical Leave

CASE STUDY

CASE STUDY - FAMILY AND MEDICAL LEAVE

The Kiehl Family
Los Angeles, California

My name is Janet Kiehl. I live in Alhambra, California, where I am a single parent with my son Richard, age 18, and my daughter Becky, age 12. Although my daughter has Downs Syndrome, she is a very active member of our family, and she enjoys school. At birth, we also found out that Becky had endocardial cushion defect - she has three holes between the two chambers in her heart ... there is no medication or surgery that can help this condition.

... As you have heard from parents, doctors, and other professionals, the stress of having a disabled child is overwhelming. This stress is compounded for a single parent like me, who is the sole income-earner for her family. I hope my story will help you understand how crucial parental leave is for parents like me.

In December 1984, I was employed as a Workers Comp claims examiner ... One day, Becky's school called me at work. Senator, all working parents dread a call from school personnel, but when I was called that day, it was not to be told that Becky had the flu, but that she had been rushed to the hospital and was fighting for her life. She had stopped breathing. The doctors did not think she was going to make it, as she was extremely weakened from her heart condition. As any parent would do, I camped out at the hospital while trying to take care of my other child. I used all ten days of my sick time.

The day Becky was discharged, the personnel manager called me and told me that if I didn't return to work in two days, I would be put on unpaid status subject to probation and termination. I didn't know what to do. Becky was too weak to return to school and needed further medical treatment at home. But I couldn't afford a nurse.

I taught my mother how to administer CPR and oxygen, so she could take care of Becky. On my first day back at work, I received a call from my mother. Becky had been taken to the emergency room by ambulance. She had a "spell". My mother was unable to cope with this stress. I was convinced that I needed more time off to take care of her - even if it meant losing my job. My daughter was more important.

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The very next day, the personnel manager called me. She wanted me to come to the office for a meeting to discuss my lost time from work. I told her I would have to bring Becky, her wheelchair, and her oxygen tank. She decided to have a conference call instead. They gave me the option of quitting or taking a 30-day leave of absence without pay. I had to return by the end of 30 days or I would be fired. I also had to pay them to keep my own insurance active, and I had to borrow money that month to survive.

Becky was very weak.... I was terrified about what would happen if she was not strong enough to return to school after 30 days. I spent at least 5 hours a day on the phone calling every agency I could think of to find nursing care for her. No luck.

My employer had sent me a letter saying that they hoped I could return to work as soon as possible, before the 30 days was up. I had to called the personnel manager every couple of days to tell them how my search for nursing care was going. This pressure was unbelievable. I can't describe the anguish I felt.

I had to get back to work, not only to pay rent and food bills, but also to pay Becky's doctor bills, since my employer had not given me insurance coverage for her, because of her pre-existing condition. I knew if I did not get back to work, I would have to go on welfare.

Just before the 30 days were up, Becky's teacher and school psychologist found a placement for her in a school for orthopedically handicapped children, which was 20 miles from our house. The school was not academically appropriate for her because the classes were way above her level. However, there was a nurse on duty, and oxygen was available, and the school was able to meet her medical needs. Becky was still very weak, but the school officials knew I needed this placement in order to financially survive. I signed a waiver to release the school of responsibility, and I went back to work. On days when Becky was even too weak to go to this school, I had to keep my 16-year-old son out of school to take care of her.

Senator, this was the most horrible period of my life. If I hadn't found this school for Becky, I would have had the option of going on welfare, institutionalizing her, which one state counselor told me to do, or giving her up to a foster home. I didn't want to break up my family. I don't think any parent should be put in this position.

I know that thousands of parents who have children with disabilities live in fear of losing their jobs when their children are seriously ill. I urge you to do everything in your power to see that this bill is passed as soon as possible.

# # #

From testimony before the Senate Committee on Labor and Human Resources, Subcommittee on Children, Family, Drugs and Alcoholism, hearings on the The Parental and Medical Leave Act, S. 249, July 20, 1987.

Family and Medical Leave

FAMILY AND MEDICAL LEAVE -- BENEFITS TO BUSINESS

THE FAMILY AND MEDICAL LEAVE PROPOSALS ARE CONSISTENT WITH A LONG TRADITION OF LABOR STANDARD STATUTES IN OUR COUNTRY, INCLUDING:

The Fair Labor Standards Act which establishes a minimum wage, regulates overtime work, and restricts the use of child labor;

The Social Security Act;

Title VII of the Civil Rights Act of 1964;

The Age Discrimination in Employment Act;

The Occupational Safety and Health Act, which establishes minimum standards to ensure health and safety in the workplace;

The Employee Retirement Income Security Act which sets standards to regulate pension and employee benefit plans.

In the past, the need for minimum labor standards arose when unacceptable social conditions prevailed and it was believed that a societal solution was necessary to remedy the situation.

The Family and Medical Leave bills respond to dramatic changes in the composition of the workforce which have created a crisis for many of today's families.

COMPANIES HAVE PROVEN THAT FAMILY AND MEDICAL LEAVE POLICIES WORK.

The National Council for Jewish Women reports recently that 38% of companies with more than 20 employees offer some parental leave and 36% of companies with fewer than 20 employees offer this type of leave.

The fact that many employers offer leave policies more generous than those required by the Family and Medical Leave bills is evidence that business can accommodate this contemporary labor standard.

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THE FAMILY AND MEDICAL LEAVE PROPOSALS BENEFIT BUSINESS

Studies and Congressional testimony have shown that employers who provide family and medical leave encourage loyal and skilled employees to remain with the company and saves on costs for recruitment, hiring and training.

A General Accounting Office study found that the proposed legislation would save employers rehiring and retraining costs, create higher morale and increase productivity.

Uniform standards help all businesses maintain a minimum floor of protection for their employees without jeopardizing or decreasing their competitiveness internationally or nationally.

When leave is provided, it is not abused. Research has shown that workers miss an average of 4.2 days of work a year due to illness or injury. With respect to pregnancy, the average employed woman will have two children during her lifetime and will be in the workforce over 26 years.

The cost of providing unpaid leave is minimal. The typical monthly cost of continuing health benefits is estimated to be $70 for individual coverage and $150 for family coverage per month.

The bills accommodate small businesses by requiring employees to provide advance notice when possible; to accommodate the employer's scheduling needs, if possible, when arranging to take leave; and to provide medical certification to verify illness if requested to do so by the employer.

The proposed bills exempt employers with fewer than 15 employees, thus excluding over one-fifth of the workforce -- or 16 million workers -- from coverage.

Family and Medical Leave

WHO'S COVERED? WHO'S NOT?

State-by-State Listing of Census Data on Percentages of Employers with Less than 10 and Less than 20 Employees

The proposed Family and Medical Leave Act would cover employers with 15 or more employees. (Census Bureau does not break down figures at 15.)

STATE	PERCENTAGE OF EMPLOYERS WITH Less than 10 Employees	Less than 20 Employees
Average for U.S.:	75%	88%
Alabama	77%	88%
Alaska	79%	90%
Arizona	76%	88%
Arkansas	78%	90%
California	75%	87%
Colorado	77%	89%
Connecticut	76%	87%
Delaware	75%	88%
D.C.	71%	85%
Florida	78%	89%
Georgia	75%	87%
Hawaii	75%	88%
Idaho	79%	91%
Illinois	75%	87%
Indiana	75%	87%
Iowa	79%	90%
Kansas	78%	89%
Kentucky	77%	89%
Louisiana	75%	87%
Maine	80%	90%
Maryland	73%	86%
Massachusetts	74%	86%
Michigan	76%	88%
Minnesota	75%	87%

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Mississippi	78%	89%
Missouri	76%	88%
Montana	76%	88%
Nebraska	79%	90%
Nevada	77%	89%
New Hampshire	78%	89%
New Jersey	76%	87%
New Mexico	77%	89%
New York	78%	89%
North Carolina	76%	88%
North Dakota	80%	91%
Ohio	75%	87%
Oklahoma	77%	89%
Oregon	79%	90%
Pennsylvania	75%	87%
Rhode Island	76%	87%
South Carolina	77%	88%
South Dakota	81%	91%
Tennessee	76%	87%
Texas	76%	88%
Utah	76%	88%
Vermont	81%	91%
Virginia	75%	88%
Washington	78%	89%
West Virginia	78%	89%
Wisconsin	76%	88%
Wyoming	80%	91%

Source: Bureau of Census, Department of Commerce, County Business Patterns 1984.

Family and Medical Leave

GOVERNMENTS WITH MINIMUM STANDARDS FOR PARENTAL OR MATERNITY LEAVE

	Duration of leave (weeks)	Number of paid weeks and percent of normal pay (paid by government and/or employer)
AUSTRIA	16–52	20 weeks / 100%
CANADA	17–41	15 weeks / 60%
FRANCE	18	16 weeks / 90%
FINLAND	35	35 weeks / 100%
W. GERMANY	14–26	14–19 weeks / 100%
ITALY	22–48	22 weeks / 80%
JAPAN	12	12 weeks / 60%
SWEDEN	12–52	38 weeks / 90%

Source: Women at Work, International Labor Office Global Survey

See other side for a full listing of countries with some form of Required Parental or Maternity Leave

COUNTRIES WITH SOME FORM OF PARENTAL OR MATERNITY LEAVE

ASIA AND THE PACIFIC (18)
Afghanistan
Australia
Burma
Fiji
India
Indonesia
Japan
Democratic Kampuchea
Lao People's Dem. Republic
Malaysia
Mongolia
Nepal
New Zealand
Pakistan
Philippines
Singapore
Sri Lanka
Thailand

NORTH AND SOUTH AMERICA (27)
Argentina
Bahamas
Barbados
Bolivia
Brazil
Canada
Chile
Colombia
Costa Rica
Cuba
Dominican Republic
Ecuador
El Salvador
Grenada
Guatemala
Guyana
Haiti
Honduras
Jamaica
Mexico
Nicaragua
Panama
Paraguay
Peru
Trinidad and Tobago
Uruguay
Venezuela

AFRICA (37)
Algeria
Angola
Benin
Botswana
Burkina Faso
Burundi
Cameroon
Central African Republic
Chad
Congo
Egypt
Equatorial Guinea
Ethiopia
Gabon
Ghana
Guinea
Ivory Coast
Kenya
Lesotho
Liberia
Libyan Arab Jamahiriya
Madagascar
Mali
Mauritania
Mauritius
Morocco
Niger
Nigeria
Rwanda
Senegal
Somalia
Swaziland
Tanzania
Togo
Tunisia
Uganda
Zaire

EUROPEAN SOCIALIST COUNTRIES (11)
Albania
Bulgaria
Byelorussian SSR
Czechoslovakia
German Democratic Republic
Hungary
Poland
Romania
Ukranian SSR
USSR
Yugoslavia

EUROPEAN MARKET ECONOMY COUNTRIES (19)
Austria
Belgium
Denmark
Finland
France
Federal Republic of Germany
Greece
Iceland
Ireland
Italy
Luxembourg
Malta
Netherlands
Norway
Portugal
Spain
Sweden
Switzerland
United Kingdom

THE MIDDLE EAST (15)
Bahrein
Democratic Yemen
Iran
Iraq
Israel
Jordan
Kuwait
Lebanon
Oman
Saudi Arabia
Syrian Arab Republic
Turkey
United Arab Emirates
Yemen

Family and Medical Leave

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Family and Medical Leave

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